

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-A-1584-MA-2018
Date of decision : 19.11.2018

Simran

... Applicant

Versus

Alok Moriya and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU***

Present: Mr.G.S.Manku, Advocate
for the applicant.

RAJIV SHARMA, J.

This appeal is instituted against the judgment of acquittal dated 08.02.2018 rendered by the learned Addl.Sessions Judge, Gurugram, whereby respondent no.1 was charged with and tried for offences punishable under Sections 376(2)(n) and 420 IPC.

2. The case of the prosecution in a nutshell is that the prosecutrix solemnized the marriage with the respondent on 07.03.2013. The relationship between the appellant and respondent no.1 was cordial for some time. They stayed together as husband and wife. However, a complaint was filed on 27.08.2016 on the basis of which FIR was registered. The prosecutrix was medically examined. The matter was investigated and challan was presented in the Court after completing all the codal formalities.

3. The prosecution examined number of witnesses in its support. The statement of accused under Section 313 Cr.P.C. was recorded. He has denied the case of prosecution. The appellant was acquitted as noticed

hereinabove. Hence this appeal.

4. We have heard learned counsel for the parties and have gone through the judgment and record very carefully.

5. PW-1 Girish Kumar has prepared the scaled site plan Ex.P1.

6. PW-2 prosecutrix (name withheld) has testified that she has studied up to Class 12th. She had first met respondent no.1 at a Call Centre at Noida. Respondent no.1 proposed to marry her. They performed marriage on 07.03.2013 in Mandir. They stayed together as husband and wife for 25 days. Thereafter she came across the LIC document in her house. She came to know about the marital status of the respondent. Even thereafter she stayed with the respondent for one month. Then they separated. The respondent kept her and his wife in the same house. They stayed in this arrangement for six months. The respondent had told her that he had separated from his first wife. In these circumstances she lodged the complaint on 27.08.2016. In her cross-examination, she has admitted that she had love affair with the respondent. She, respondent and his wife were staying together. The respondent maintained physical relations with her even his wife was living in the same house. There is inordinate delay in lodging the FIR. The prosecutrix knew the respondent for the last 4 years. They performed marriage on 07.03.2013. Even after she came to know about the marital status of the respondent she had stayed with him. The marital status of the respondent came to the knowledge of her in the month of March-April, 2013. Even then she had stayed with him. The prosecutrix was aged 21 years. She had stayed voluntarily with the respondent. She had stayed in the company of the respondent and his wife for six months. She had earlier filed the complaint which was withdrawn by her. She came to know about the marital status of the respondent within 50 days of marriage

and the complaint was filed only after 4 years, i.e. 27.08.2016.

7. The prosecution has failed to prove charges against the
respondent under Section 376(2)(n) and 420 IPC. Accordingly there is no
merit in the application. Leave to appeal is accordingly declined.
8. Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

November 19, 2018.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No