

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-2102-MA of 2018

Date of Decision : December 10, 2018

State of Haryana

....Applicant

VERSUS

Sukhwinder Singh alias Sunny and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Praveen Bhadu, Assistant Advocate General, Haryana.

T.P.S. MANN, J.

The State of Haryana has filed the present application under Section 378(3) Cr.P.C. seeking grant of leave to appeal against the judgment dated 23.3.2018 passed by learned Additional Sessions Judge (Exclusive Court for the Heinous Crimes against Women and Children), Yamunanagar at Jagadhri whereby all the three accused who are respondents No.1 to 3, herein, were acquitted of the charge under Sections 148/452/323/427/436 read with Section 149 and Section 506 IPC.

According to the prosecution, complainant Babita wife of Rakesh got recorded her statement with the police wherein she stated that she was permanent resident of village Sabdalpur Bitiya, Police Station Dehat Kotwalia, Saharanpur but residing at Shiv Nagar Camp, Yamuna Nagar. When she was going to the factory for labour work, Raju, alongwith his companions met her at the brick kiln and asked her for developing relations with them. His brother Sukha also often used

to meet her and asked her for developing relations. They wanted her to agree to the proposal or the result would not be good. As she had children, she did not disclose about the same to anyone. On 24.2.2015 at about 2.30 p.m. when she was sitting in her house and cooking food, her husband left for labour work. Her neighbour Kishan was present in his house. Other ladies in the neighbourhood had gone to Shiv charcha, whereas her son Rajat went to the school but returned due to fear of Sukha accused. Both Raju and Sukha had gone to the school of her son and gave beatings to him. Sukha and Raju alongwith 5/6 boys while armed with danda, sword, gandasi, etc. came there. Sukha and Raju started beating her. She, after climbing the stairs was able to flee from the other side of the house. When Sukha and Raju, alongwith their accomplice were chasing her, the boys from her neighbourhood tried to rescue her. She did not know as to how Raju had suffered injuries but on seeing the gathering of the neighbours, Sukha and Raju alongwith their accomplice fled away. On 25.2.2015 at 8.30 p.m., the complainant's sister Rekha came to her house. Sukha alongwith 5/6 boys armed with danda, sword, etc. came there and all of them started maltreating and beating her. The complainant and others ran away to save their lives. Sukha proclaimed that the complainant party had inflicted injuries to Raju but as they could not be apprehended, their houses be set on fire. Sukha and his accomplice set on fire the clothes lying in her house and damaged the domestic articles, besides taking some articles and jewellery with them. While leaving the spot, they threatened that whoever would take their side, they would set his

house on fire. With the help of neighbours, the complainant extinguished the fire. During the night the complainant remained hidden here or there but due to fear could not go to the Police Post. The accused had broken the meter of her house and house of the neighbour. Accordingly, she prayed for taking legal action against the accused.

Having heard learned State counsel and on going thorough the impugned judgment of acquittal, this Court finds that the complainant, while being examined as PW6, deposed about the occurrence which had taken place three years ago at about 1.00 o'clock during the night. However, she did not mention the date and the year of the said incident. Even if it is assumed that the occurrence had taken place on a particular date and year but she did not state about giving of beatings to her by the accused or she was medically examined. She also failed to disclose about the date of the incident when her sister Rekha and daughter Tanu were present in their house and seen the occurrence in question. Both, Tanu and Rekha, were not examined by the prosecution in support of its case. Rather, they were given up as having been won over by the accused.

According to the complainant, a criminal case was pending against her son Rajat for causing injuries to the brother of accused Pardeep @ Sukha. Though she stated that Sukha and his brother had been harassing her but she did not make any complaint against them. She did not tell as to how the accused had fled at the time of commission of alleged crime. There is also no medical evidence on the

record to prove that she had suffered injuries in the said incident though she alleged that they had beaten her with danda and sword. Under these circumstances, the learned trial Court held that the possibility could not be ruled out about the complainant involving the accused in order to save her son Rajat.

PW7 Rakesh, husband of complainant Babita PW6 deposed about the incident taking place on 24.4.2015, when the accused came in his house and quarrelled with him and his wife besides giving injuries to them. Though he stated that the accused had burnt their articles but his testimony was totally against the version of the complainant.

In view of the above, it cannot be said that the learned trial Court erred in acquitting the accused. The findings arrived at by the learned trial Court are based upon correct appreciation of the facts and circumstances of the case. Under these circumstances, no case is made out for any interference in the impugned judgment of acquittal.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

December 10, 2018
satish

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO