

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-2430-MA of 2016

Decided On : 21.03.2018

Meena Rani

....

Applicant

vs.

Sucha Singh and another

....

Respondents

CORAM : HON'BLE MR. JUSTICE T. P. S. MANN.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Ms. Ekta Thakur, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (3) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of leave to appeal against the judgment dated 20.09.2016 passed by the Additional Sessions Judge, Shaheed Bhagat Singh Nagar (for short – the trial court), through which respondent no.1 has been acquitted of the charges framed against him under Sections 376, 506, 323 of the Indian Penal Code, 1860 (for short – IPC).

Briefly stated, the case of the prosecution is that on 10.06.2013, respondent no. 1 – Sucha Singh and one Manpreet Singh, who knew the prosecutrix for the last about 5-6 years, offered her a job in a factory. They told her that if she was interested, she should come to Gurdwara Tibbi Sahib on the following day at 02:30 PM. As the prosecutrix was in the need of the job, she went to the Gurdwara at the

allotted time from where she was picked up by respondent no. 1 on his scooter. He stopped his scooter after about two kilometers near a cream coloured Alto Car. She, along with respondent no. 1 then sat in the car, which was being driven by the afore-referred Manpreet Singh. She was driven to a forest where she was subjected to rape by respondent no. 1 and the aforesaid Manpreet Singh. Thereafter, she called her son Raj Kumar who came there and took her to the Civil Hospital, Ropar where she was initially given first-aid and then was asked to go to Civil Hospital, Balachaur and it was in that hospital, where she was medically examined.

After registration of the case under Sections 376, 506, 323, 34 IPC, investigation was carried out. In such investigation, Manpreet Singh was found innocent. However, finding respondent no.1 guilty, report under Section 173 Cr.P.C. was filed against him.

The matter was referred to the Court of Sessions as it was exclusively triable by that Court, which marked the case to the trial court, which after finding a prima facie case against the accused-respondent no.1, charged him for offences under Sections 376, 323 and 506 IPC.

The trial court, after sifting the evidence which had come on record, acquitted respondent no. 1 of the charges framed against him by giving him benefit of doubt. It is such acquittal of respondent no. 1 which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the prosecution before the trial court, submitted that the trial court erred in acquitting the accused-respondent

no. 1 of the charges levelled against him as there was overwhelming evidence on record to prove his guilt and therefore, there was no reason in fact or in law with the trial court to acquit him.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant a favourable consideration.

The evidence on record reveals that the present case is the third one filed by the prosecutrix against respondent no. 1 with the same kind of allegations. Previously, FIR No. 17 dated 25.01.2010 under Sections 450/376 IPC was got registered by the prosecutrix. Such FIR was quashed by this Court on the basis of affidavit filed by the prosecutrix, in paragraph no. 2 of which she stated that she had got the FIR registered due to some misunderstanding and that she had been living with respondent no. 1 as husband and wife for the last about ten years. She had further stated in paragraph no.3 of such affidavit that there was some money dispute between herself and respondent no. 1 and on account of that she had got registered the FIR against respondent no. 1.

Another FIR being No. 123 dated 26.08.2011 under Sections 376, 377, 506, 34 IPC was also got registered by the prosecutrix against respondent no. 1 at Police Station Chamkaur Sahib. While deposing before the trial court, the prosecutrix admitted that she had got lodged this FIR against respondent no.1 and one Hardev Singh. In this FIR, after investigation, Hardev Singh was found innocent and after trial, respondent no. 1 was acquitted.

It was the case of the prosecution that respondent no. 1 had offered the prosecutrix a post in the DCM factory whereas in her statement under Section 164 Cr.P.C., she stated that it was she, who had sought help from respondent no. 1 to seek a job in DCM factory, for which she had even given a phone call to him. That being so, her statement is most improbable as no lady, who has earlier filed two FIRs against a person alleging rape, would seek his help for getting a job.

It is further highly improbable for a lady to voluntarily sit on the scooter of a person against whom she has herself on at least two earlier occasions filed complaints of rape and then on his asking, sit in a car where, according to her, there was also a person with a muffled face.

As per the prosecutrix, she had been given fist blows by respondent no. 1 on different parts of her body. This version of hers is not supported by any medical evidence.

The story of the prosecutrix with regard to allegations against Manpreet Singh was not found to be true by the Investigating Agency. Even an application filed under Section 319 Cr.P.C. to summon Manpreet Singh as additional accused was dismissed by the Court creating a huge dent in the prosecution's case.

As per version of Dr. Poonam Panesar, who appeared as PW-10, she did not find any evidence of violent sexual intercourse. No injury was also found on the wrist, hand, legs etc. of the prosecutrix. As the offence was alleged to have been committed by two males, no DNA testing was done.

In view of the above contradictions, no fault can be found in the findings recorded by the trial court acquitting respondent no.1 of the charges framed against him by giving him the benefit of doubt.

Accordingly, the present application is found to be devoid of any merit and, therefore, dismissed.

Leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 21, 2018

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>