IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM A-259-MA of 2018
Date of Decision : November 14, 2018

Suman

.....Applicant

VERSUS

State of Haryana and others

.....Respondents

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

Present : Mr. Abhishek Yadav, Advocate
for the applicant.

T.P.S. MANN, J.

The prosecutrix has filed the present application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 18.10.2017 passed by learned Additional Sessions Judge, Rewari.

Vide impugned judgment, learned trial Court acquitted Balram, Pawan Kumar, Hari Kishan, Jagrati, Rajbir @ Raju, Rakesh, Ramwati and Krishna-accused, who are respondents No. 2 to 9, herein, of the charge under Sections 420, 376, 452, 363, 323, 506 and 354-A IPC.

According to the prosecution, the prosecutrix was 19 years of age. Around 5/6 months ago, Balram-accused had taken

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her along from Rewari on the pretext of getting married. They stayed at Panchgaon in a rented accommodation. A month ago she came to know that Balram already stood married. On 29.11.2016, the family and wife of Balram reached Panchgaon and brought them to Pataudi where she was given beatings. On 30.11.2016, she called her parents on phone, who brought the police. She lodged report with the police and, accordingly, FIR was registered. She was medico-legally examined and her statement recorded under Section 164 Cr.P.C.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that the prosecutrix had left her house on 18.5.2016 on her own and not on account of any allurement or use of force by Balram accused. Her parents did not lodge any complaint about her missing from the house till 29.11.2016 when her father had received call about her presence at Pataudi. In his cross-examination, her father testified that they had presumed the prosecutrix as dead, who had left their company without their consent. The factum of the prosecutrix leaving her house of her own while in the company of Balram-accused gets fortified from the fact that she had left the house of her own and met Balram-accused at Railway Station from where they went to Gurugram and Panchgaon where she stated with Balram-accused for almost six months without complaining against him to any one including

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her parents, police or the persons in the neighbourhood.

Though the prosecutrix had come to know about the marital status of Balram-accused a month prior to her recovery but she did not complain to anyone against him nor left his company. The factum of the prosecutrix knowing the marital status of Balram-accused is fortified from the fact that she was already in touch with Balram-accused for the last two years. As stated by her, both belonged to the same community and there was hardly any distance between their houses.

As regards the allegations of molestation against Pawan-accused, it may be worthwhile to notice that she did not mention anything against him in her complaint Ex. PY. Only in the statement Ex.PB got recorded by her under Section 164 Cr.P.C. that she made mention of such fact.

Coming to the question of allegations of assault on 29.11.2016 by the accused, PW5 Dr. Vijay Arpan while conducting medico-legal examination of the prosecutrix noticed injuries on the prosecutrix which were simple in nature and caused by blunt weapon. However, it cannot be said with certainty that these injuries were caused on 29.11.2016.

In view of the above, no fault can be found with the findings arrived at by the learned trial Court so as to acquit the accused of the charges against them.

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

(T.P.S. MANN)
JUDGE

November 14, 2018 **(HARSIMRAN SINGH SETHI)**
ajay-1 **JUDGE**

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No

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