

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM A-1799-MA of 2017
Date of Decision : May 14, 2018**

Veerpal KaurApplicant

Versus

State of Punjab and another Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present : Mr. Sandeep S. Majithia, Advocate
for the applicant.

T.P.S.MANN, J.

The instant application has been filed by victim Veerpal Kaur seeking grant of leave against the judgment dated 18.3.2017 passed by the Additional Sessions Judge, Barnala, whereby, the accused, i.e. respondent No. 2, stands acquitted of the charges framed against him under Sections 450/376/328 IPC.

According to the prosecution, the victim married Sukhwinder Singh about 10 years ago and two children were born from this wedlock. As her husband was in army and posted at Kargil, she was residing with her children and father-in-law in the matrimonial home. On 27.10.2014, her husband was on leave and present in his house. He had gone to Bhadaur for some work while her father-in-law was in the fields. The children were also in

school. At about 2.00 p.m., the accused entered her house. At that time, she was working in the kitchen. The accused dragged her into a room and committed rape upon her. When she tried to raise an alarm, the accused put some poisonous substance in her mouth. After committing rape, the accused ran away. She raised an alarm, which attracted her brother-in-law Gurmeet Singh and his wife Gurpreet Kaur, who took her to Civil Hospital, Tapa. As her condition was critical, she was referred to Civil Hospital Barnala. According to her, the accused used to harass her on phone by using obscene language. She disclosed the entire occurrence to her husband and the police recorded her statement. On 30.10.2014, she was taken before a Magistrate and made to depose under the threat of police. Her statement was not recorded with her free will.

Upon completion of investigation, which included recording of the statements of the victim as well as her husband Sukhwinder Singh, final report under Section 173 Cr.P.C. was filed by the Investigating Agency. Case was, thereafter, committed to the Court of Sessions, where the accused was charged for the aforementioned offences, to which, he pleaded not guilty and claimed trial.

The trial Court after perusing the evidence, acquitted the accused as it found that the prosecution had failed to prove the charges against him. It is such acquittal of the accused, which

is 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 accused has wrongly been acquitted of the charges against him despite there being overwhelming evidence on record clearly proving him to have committed the offence, for which, he was charged.

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

The prosecutrix, i.e. the victim is a married lady and having two children. After her statement was recorded by the police and FIR was registered, the prosecutrix was produced in the Court of Judicial Magistrate 1st Class, Barnala on 30.10.2014, where her statement under Section 164 Cr.P.C. was recorded. She mentioned therein that the accused did not commit any wrong act with her and she had no relationship of any kind with him. It is true that the prosecutrix changed her version and moved an application to the S.S.P., Barnala for taking action against the accused as, according to her, her statement under Section 164 Cr.P.C. was not voluntary. Fact remains that when she had made her statement on 28.10.2014 on the basis of which the FIR was registered, her husband was present with her whereas when her statement under Section 164 Cr.P.C. was recorded, she was all

alone. The defence has brought on record copy of divorce petition Ex.D1 filed by the husband of the prosecutrix on 4.11.2014. In his petition, the husband had stated that he had found his wife in objectionable position with the accused and only in order to conceal her mistake that she had lodged the FIR against the accused. Later on, she resiled from her statement and went to her parents' village. The husband, while in the witness box as PW2 admitted his signatures on the divorce petition though he denied the contents of the same. There is also no evidence on record in the shape of medical evidence or otherwise about administering the poisonous substance by the accused to the prosecutrix.

In view of the above, no fault can be found with the impugned judgment passed by the learned trial Court whereby the accused stood acquitted of the charges against him. The application is devoid of merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

May 14, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No