

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

CRM-A-2230-MA-2017

Date of decision: 9th July, 2018

Rajinder Kaur

... Applicant

Versus

State of Punjab & another

... Respondents

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

Present: Mr. Rajvir Singh, Advocate for the applicant.

FATEH DEEP SINGH, J.

The present application filed by the prosecutrix under Section 378(4) Cr.P.C. seeking grant of leave to appeal is against the impugned judgment of acquittal dated 26.08.2015 of the Court of learned Sessions Judge, Rupnagar passed in criminal case bearing FIR No.75 dated 08.09.2013 under Sections 342, 376(G), 120-B and 506 IPC pertaining to Police Station Singh Bhagwantpur.

Heard Mr. Rajvir Singh, Advocate representing the applicant and perused the records.

The prosecutrix had initially filed Criminal Misc. No.10834 of 2013 before this Court, as a consequence of which the present case was got registered against accused Gurpreet Singh alias Cheenu. In the allegations, the prosecutrix alleged that she was handicapped from both legs and carries on household work as well as stitching and had studied upto 10th class. She alleged that on

25.11.2007 around 4:00 a.m. the accused, who belongs to the town of the prosecutrix, came to their house alongwith three unknown persons with muffled faces and the accused Gurpreet Singh alias Cheenu gagged her mouth with a piece of cloth and she was abducted in a car and taken to a tubewell room where she was forcibly raped, and thereafter, was threatened by Gurpreet Singh alias Cheenu with elimination. It is subsequently, when she came out of her inhibition, she was taken to a doctor and was medically treated. The prosecutrix has alleged that her friend Sarabjit Kaur connived with the accused and she was subjected to rape repeatedly after she was made unconscious and the matter was reported to the village Sarpanch but no action was taken and rather accused Gurpreet Singh alias Cheenu assured that he would marry her.

After investigation was completed and challan was submitted, prosecution examined the prosecutrix as PW-1; lady Constable Amandeep Kaur as PW-2; Dr. Manjit Kaur, Medical Officer as PW-3; Dr.Chiranjeev Kaur, Medical Officer as PW-4; Sukhwinder Kaur, Clerk from the office of Local Registrar, Births and Deaths as PW-5; Dr. Pawan Kaushal, Medical Officer as PW-6; HC Davinder Kumar as PW-7; ASI Harbans Singh, Investigating Officer as PW-8; Sameer Verma, ACP as PW-9; Gurdial Singh, father of the prosecutrix, as PW-10; Inspector Dharam Pal as PW-11; SI Simarjit Kaur as PW-12; ASI Kulwinder Singh as PW-13; Inspector G.P.

Singh as PW-14; Inspector Ravinder Pal Singh as PW-15, and thereafter closed its evidence.

The accused was put to incriminating evidence, oral as well as documentary, proved at the trial, but he denied the allegations taking the plea of false implication and in his defence examined DW-1 HC Manmohan Singh and closed his evidence. Consequent upon arguments, the impugned findings of acquittal were returned.

Appreciating the submissions, as per the own stand of the prosecutrix, it is not a case of solitary instance of rape as she claims that over a long period of time, she has been repeatedly raped. The prosecutrix admits herself to be aged around 42 years and thus, fully grown-up, sufficient enough to understand the world and as per her own stand, accused Gurpreet Singh alias Cheenu from the year 2007 to 2013 had been on visiting terms and thus, she was well acquainted with him. The occurrence has taken place initially on 25.11.2007 and the FIR has been registered on 08.09.2013. Assuming that it was on the basis of directions of this Court, but even then as per the stand of the prosecution the petition, on the basis of which orders were passed by this Court, was filed in the year 2013. Thus, there is apparently unexplained delay of almost six years which is alarming.

Though learned counsel for the applicant has sought to arouse feelings of the Court by claiming that a handicapped woman has been raped and needs to be dealt with strictly, however having

regard to the fact that in dispensation of justice, the Court has to see all aspects of the allegations, and thereafter, reach a conclusion which is reasonable and convincing. The prosecutrix has been sought to be medically examined by PW-3 Dr.Manjit Kaur, Medical Officer, Civil Hospital, Ropar who has clearly stated that at that time the prosecutrix was pregnant and the last act of ravage took place on 02.08.2013 as per the information furnished by the prosecutrix to the doctor and therefore, is another distressing feature for the prosecution. Furthermore, the allegations levelled by the prosecutrix that the accused had threatened her that he was having her obscene photographs, but nothing tangible has been brought on record in the evidence by way of any such documentary representation to this effect. Examining the entire ambit of allegations of the prosecutrix, the fact remains that the medical evidence does not come to her aid and rather highlights the fact that the prosecutrix was a consenting party throughout this period of six years and subsequently, has belatedly raked up these allegations which obviously are for a motivated purpose. Even the medical record Ex.PC to Ex.PJ does not help the case of the prosecution. The learned Court below has scanned each and every aspect of the allegations from the evidence proved on the record and has rightly drawn the conclusion that the prosecutrix is a 42 years' old matriculate and was in relationship with the accused for more than six years being on visiting terms and her

studied silence throughout this period is certainly fatal for the prosecution allegations. Even the report of the Chemical Examiner Ex.PF that spermatozoa were detected, is quite unacceptable as the last sexual assault, in the light of these allegations, took place on 02.08.2013 and she has been examined on 01.10.2013, certainly cannot be taken to be a legal and legitimate acceptable piece of evidence.

In the light of what has been observed in the foregoing discussion, we do not find any illegality in the findings of the Court below and rather concur with it. The application for grant of leave to appeal does not have any merit and stands dismissed. Leave to appeal is accordingly declined.

(T.P.S. MANN)
JUDGE

(FATEH DEEP SINGH)
JUDGE

July 9, 2018
rps

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