

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-865-MA of 2018

Date of Decision : December 10, 2018

Priyanka

....Applicant

VERSUS

State of Haryana and another

...Respondents

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

Present : Mr. Kartar Singh Malik-1, Advocate
for the applicant.

T.P.S. MANN, J.

The prosecutrix has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 6.3.2018 passed by learned Additional Sessions Judge, Rohtak whereby Deepak accused stands acquitted of the charges under Sections 363, 366 and 376 IPC.

According the prosecution, the prosecutrix had passed 10+2 and used to take coaching for PMT from Kota Classes Institute. On 23.3.2017, she left for Rohtak to attend her class. However, when she reached Sonapat stand, the accused, who was known to her for the last three years and used to reside near the house of her Bua accosted her and took her to D-Park, Rohtak where he raped her at a lonely place in the park. Thereafter, he forcible took her to Rewari, Saharanpur and some other places after boarding the train. On 25.3.2017, he brought her back to Delhi and then to Rohtak Bus Stand, where her father, who

was searching for her met them. She revealed everything to her father. She then reported the matter to the police and, accordingly, FIR was registered.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that though the accused had allegedly suffered scratches on his back while the prosecutrix was resisting his attempt yet PW12 Dr. Jaideep testified that he did not find any injury mark on his person. Further, according to the prosecutrix, she was in semi-conscious condition and taken to different places without her consent. However, no such mention was made by her while lodging the report with the police. Even otherwise, it was well nigh impossible for the accused to have taken her in a public transport and changing the trains, besides bringing water, juice, etc. for her in the train. She testified that the accused was known to her for the last three years and they used to meet in a park and share food. She also admitted that she used to live with the accused. However, she denied ignorance about the accused being already married. She went on to state that it was maternal uncle of the accused who had told her that the accused was already married.

PW10 Dr. Komal Singhania, who had medico-legally examined the prosecutrix testified that though there was possibility of sexual intercourse yet there was no symptoms of any drug abuse. It was not mentioned that she was unconscious for the last 4/5 days. The doctor did not find any injury mark/struggle mark on her person.

In his defence, the accused had placed on record photographs Exs.D1 to D18 of the prosecutrix when she was in his company. Those photographs revealed the prosecutrix being in a happy mood. In her cross-examination, she stated that she used to live with the accused. Though she admitted the factum of knowing one Monu son of Surja and had taken photographs with him yet she went on to add that she had made complaint against Monu several times, who also had been doing the same thing with her. She further stated that Monu had threatened her by proclaiming that he had her photographs and video and, accordingly, she had moved complaints against Monu prior to the present case but she had compromised the matter with Monu.

In view of the above discussion, this Court is of the view that 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