

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-976-MA of 2016

Decided On : 04.05.2018

Rupinder Kaur

....

Applicant

VS.

State of Punjab and another

....

Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. H. P. S. Ghuman, Advocate
for the applicant.

Mr. I. P. S. Doabia, Addl. A. G., Punjab

Mr. H. S. Jugait, Advocate
for respondent no. 2.

* * *

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 01.03.2016 passed by the Additional Sessions Judge, Mohali (for short – the trial court), through which respondent no.2 – Ramandeep Singh has been acquitted of the charges framed against him under Sections 376 and 506 of the Indian Penal Code, 1860 (for short – IPC).

Briefly stated, the case of the prosecution is that in the year 2011, on the pretext of handing over a book to her, respondent no. 2 called the prosecutrix to his house where he raped her and after giving her threats, continued to do so for several years.

After registration of a case under Sections 376 and 506 IPC, investigations were conducted which resulted in the presentation of challan against respondent no. 2. Since the matter was triable by the court of Sessions, the same was committed to that Court which entrusted the same to the court of Additional Sessions Judge, Mohali and it was that court which, after finding the prima facie case under Sections 376 and 506 IPC, charge-sheeted respondent no. 2 and on his pleading not guilty, put him on trial.

The trial court, after sifting the evidence which had come on record, acquitted respondent no.2 - Ramandeep Singh by giving him benefit of doubt. It is such acquittal of respondents no. 2 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-respondents no. 2 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 record reveals that the prosecutrix, at the time of alleged occurrence, was a major as also that she is an educated person having passed her B.Com and B.Ed. It is further borne out from the record that from the year 2013 to March 2015, she worked as a Teacher at GM Memorial Public School, Zirakpur.

As per the prosecution case, the first incident of alleged rape upon the prosecutrix was in January 2011 and that such acts continued for over four years. However, it was only on 23.03.2015 that for the first time, the prosecutrix complained about the same to the police. The delay is sought to be explained by the prosecution on the ground that respondent no. 2 had threatened the prosecutrix that in case she divulged the truth to anybody, he would expose her photographs in objectionable poses, which had been taken by him. However, such photographs of the prosecutrix, alleged to have been taken by respondent no. 2, are not found on the record. Further, a perusal of the statement dated 23.03.2015 (Ex.P-A) made by the prosecutrix to the police reveals that she had not stated therein anything regarding clicking of her photographs in objectionable poses by respondent no. 2. She had stated therein that respondent no. 2 used to threaten the prosecutrix that if she disclosed to anyone about the incident, he would kill her parents and defame her. Even in her statement under Section 164 Cr.P.C., which was recorded before the Magistrate at Derabassi, the prosecutrix did not state anything about respondent no.2 taking her photographs in objectionable poses. Before the Magistrate also, she stated that respondent no. 2 had threatened to kill her parents and defame her if she divulged anything to anyone.

Then there are found on the record photographs Ex.P-1 to Ex.P-6, in which the prosecutrix is seen hugging, kissing, touching and posing happily with respondent no. 2. These photographs, which are self-explanatory, were not denied by the prosecutrix when she was confronted with them. In fact, she virtually admitted these photographs by saying that

the accused used to force her to make such poses. Such explanation of hers is found highly improbable.

In her cross-examination, the prosecutrix further admitted that she had accompanied the accused to Hotel Silky, situated at Kalka Road, Hotel Regal in Sector 45, Chandigarh and many other such places. She further went on to disclose that she had also gone with the accused to his friend's flat and some other houses.

It appears that the prosecutrix, who was an educated lady and a major, entered into a close relationship with respondent no. 2 with open eyes and only when this relationship turned sour, she filed the present proceedings. Such conclusion is drawn also for the reason that for four long years, the prosecutrix says that she was subjected to rape but during this long period, she did not complain about this to anyone. The story with regard to clicking of her photographs in objectionable poses and using of such photographs to blackmail her, in view of the observations made earlier, has not been found acceptable as the same is found to be doubtful.

The allegations of the prosecutrix that she was beaten by respondent no. 2 also fall apart for the simple reason that there is no medico-legal evidence on record showing any injury on the person of the prosecutrix.

Details of telephone calls and messages brought on record clearly reveal that hundreds of messages have been exchanged between the prosecutrix and respondent no. 2. Illustratively, from 01.09.2014 till 20.03.2015, the number of calls originating from the end of the prosecutrix to respondent no. 2 are much more than the calls made by respondent no. 2

to the prosecutrix.

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

May 04, 2018

monika

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*