

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-307-MA-2017

DATE OF DECISION: March 27, 2018

Geeta

...Applicant

Versus

State of Haryana and another

...Respondent

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

Present: Mr. Deepinder Brar, Advocate for the applicant.

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 the grant of leave against the judgment dated 13.10.2016 passed by the Additional Sessions Judge, Faridabad (for short-the trial Court), through which respondent No.2 was acquitted of the charges framed against him under Section 342, 376, 354C, 354D and 506 of the Indian Penal Code, 1860 (for short-the Code).

Briefly stated, the case of the prosecution is that in the year 2005, the prosecutrix got married to one Sushil Kumar who was a drug addict and friend of respondent No.2. To fulfil his need for drugs, the husband of the prosecutrix kept respondent No.2 as a paying guest. Once when the prosecutrix was sleeping, her husband and respondent No.2 came to the room in a drunken condition and started misbehaving with her to which she objected. Respondent No.2 then told her that he had given Rs.50,000/- to her husband for using her and after saying that he forcibly committed rape upon her. Thereafter, respondent No.2 continued to commit rape upon the prosecutrix after threatening and blackmailing her that if she told the police about the incidents of rape, he would show her MMS to the world at large. At a later point of time even the brother of respondent No.2 tried to rape the prosecutrix. She could not bear this insult any longer and told her husband everything but he did not respond. The prosecutrix also got pregnant from respondent No.2 but on receiving threats from him with regard to making her MMS public she kept mum and bore his child. The prosecutrix then told about these facts to her parents who advised her to take legal action.

On completion of investigation, final report under Section 173 CrPC was filed in the Court of Illaqa Magistrate against respondent No.2 but since the subject matter of proceedings was triable by the Court of Sessions, the case was committed to the Court of Sessions from where it was marked to the trial Court, which on finding a prima facie case, charged respondent No.2 for offences punishable under Sections 342, 376, 354C, 354D and 506 of the Code. When the accused pleaded not guilty, he was put on trial.

The trial Court, after sifting the evidence which has come on record, acquitted respondent No.2, giving him the benefit of doubt. It is such acquittal of respondent 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 respondent No.2 has wrongly been acquitted as there was overwhelming evidence on record clearly proving him to have committed the offences for which he was charged.

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

At the time of alleged incident, the prosecutrix was married; 28 years of age and a graduate. Thus, she was a reasonably mature educated woman.

In the background of above, it is highly improbable that for four years, i.e between the years 2011-2015, respondent No.2 continued to commit rape upon the prosecutrix but in spite of the fact that she was in touch with her parents, relatives, friends etc., she did not disclose this fact to them. The MMS which was the alleged cause of blackmailing by respondent No.2 was not even produced by the prosecution. No evidence with regard to the allegations of the prosecutrix of taking of drugs by her husband and supplying of the same to him by respondent No.2 is found on the record. It is also surprising that the prosecutrix even never asked for divorce from her husband who according to her encouraged respondent No.2 to commit rape upon her. Then there is the admitted fact that while remaining Sushil Kumar's wife, she became the mother of a female child fathered by respondent No.2.

In view of the above, no fault can be found in the impugned judgment acquitting respondents No.2 by giving him benefit of doubt.

Accordingly, the present application is found devoid of any merit and, therefore, dismissed.

Resultantly, leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 27, 2018
Kd

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