

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-847-MA-2017

Decided on : 08.02.2018

Sunita

..... Applicant

VERSUS

State of Haryana and another

..... Respondents

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

Present: Mr.Rohit Chaudhary, Advocate, for
 Mr.Sanjay Verma, Advocate, for the applicant.

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DEEPAK SIBAL, J.

Through the instant application filed under Section 378(3) of the Code of Criminal Procedure, 1973 (for short the “Cr.P.C”) the applicant seeks leave to appeal against the judgment dated 08.03.2017, passed by the Additional Sessions Judge, Gurugram (for short the “trial Court”) through which respondent No.2 has been acquitted of the charges framed against him under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860 (for short the “IPC”).

Briefly stated, the case of the prosecution is that on 22.10.2015 respondent No.2-Virender came to the room of the applicant/prosecutrix and made a proposal to marry her to which the applicant did not agree. However, he did not leave her room and after making a false promise of marriage raped her. He continued to rape the applicant from October, 2015 till January, 2016 as a result of which she became pregnant. When the applicant disclosed to respondent No.2 that she was pregnant he gave her fist blows leading to a miscarriage. Respondent No.2 further threatened her that he had prepared a

video film of hers and that if she said anything to anyone against him he would show that video to everyone. Respondent No.2 also threatened to kill the applicant if she said anything against him.

Finding a prima-facie case against respondent No.2, he was charge-sheeted for commission of offences under Sections 376(2)(n) and 506 IPC and on his pleading not guilty he was put on trial.

The trial Court after sifting the evidence which had come on record was of the opinion that the prosecution had not proved its case beyond reasonable doubt and acquitted respondent No.2. It is such acquittal which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant submitted that the trial Court erred in acquitting respondent No.2 of the charges levelled against him as there was over-whelming 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 deposition of the applicant, who appeared before the trial Court as PW-2, clearly reveals that she did not state therein that on 22.10.2015 respondent No.2 used any force or that she made any efforts to rescue herself/ to raise alarm. Rather, she goes on to state that she permitted the sexual relations between herself and respondent No.2 from 22.10.2015 till 12.01.2016. The applicant's deposition further goes on to reveal that she voluntarily visited respondent No.2's village and stayed there for a month. According to her it was during her stay at respondent No.2's village that she came to know that he was already married but in spite of that for several months thereafter she did not lodge any complaint. No medical evidence is

also forthcoming from the record which would prove that the applicant was subjected to rape by respondent No.2. Her allegation with regard to miscarriage also has no backing of any medical evidence. The allegation by the applicant that respondent No.2 had made a video of hers also finds no corroboration through any evidence whatsoever.

The record reveals that the applicant is a well educated woman aged about 35 years. As per her allegations, respondent No.2 raped her from October, 2015 till January, 2016. All this time was enough for a mature lady of her age to realise respondent No.2's intentions, unless of course, she was herself interested to maintain the relationship. No evidence has also come on record that respondent No.2 ever intended to marry the applicant or that he had ever made a promise to her in that regard. In the absence of the same, the applicant who was a mature lady of about 35 years of age was very much capable of understanding the implications of entering into a relationship of the sort that was between the applicant and respondent No.2.

In view of the above, the present application is found devoid of any merit and therefore dismissed.

Leave to appeal is declined.

[T.P.S.MANN]

JUDGE

[DEEPAK SIBAL]

JUDGE

08.02.2018
shamsher

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