

CRM-A-1649-MA-2018(O&M)

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

CRM-A-1649-MA-2018 (O&M)
Date of Decision: February 12, 2020

Anju		...Applicant -Appellant
	Versus	
Sandeep Kumar and another		...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Bhag Singh, Advocate for the appellant.
Mr.H.S.Mann, Advocate for respondent No.1.
Mr.Vivek Saini, DAG, Haryana.

HARINDER SINGH SIDHU, J.

1. By filing this application under Section 378(3), the applicant – appellant (the victim) has sought leave to appeal against the judgment of acquittal dated 16.02.2018 of the Additional Sessions Judge, Kaithal in Sessions Case No.58 of 2016 in respect of acquittal of respondent No.1 – Sandeep Kumar.
2. It has been brought to our notice that application for leave to appeal against the aforesaid judgment of acquittal filed by the State of Haryana being CRM-A-1219-MA-2018 titled “State of Haryana Vs. Sandeep Kumar” has already been dismissed on 24.08.2018.
3. The said order is reproduced below:

“This is an application filed under Section 378 (3) for grant of leave to appeal against the judgment of acquittal dated 16.02.2018, passed by the learned Additional Sessions Judge, Kaithal in Sessions Case No.58 of 2016 in respect of acquittal of Sandeep Kumar.

Heard learned counsel for the State.

Learned State counsel vehemently argued that the trial

Court could not have acquitted the respondent-accused as the prosecution have proved to the case of prosecutrix.

With the assistance of learned State counsel, we have perused the reasons given by the trial Court and specifically reasons mentioned in Para-15 and Para-17, which reads thus:-

“15. Now, the question is whether in such circumstances, forcible rape is possible? The answer is no, because is it not the case of prosecution that accused all of sudden came and committed rape upon the victim. As per victim, accused came to her house. He was allowed to sit in bedroom. He was served tea by the victim. Thereafter accused pressurized her to have sexual intercourse with him. Victim refused to have sexual intercourse. Accused threatened to kill victim and committed rape upon her. Victim could have raised alarm. She could have called her mother-in-law, who was present in the home at the time of alleged incident. But victim remained silent. Further, victim stated that accused had been talking with her for 5-6 months prior to incident and he kept on talking her even after incident. Why did she not disclose these facts to her husband? Why did she not block the number of accused? Victim appears to be literate lady. She appended her signature on statement recorded in Court. She remembers her mobile number and mobile number of accused but surprisingly she does not remember day and date of the alleged incident. Further, the place of occurrence is house of victim, which is situated in village. The houses of co-villager is situated almost adjacent to the alleged place of occurrence. Normally in village scenario, it is unusual for a man to openly visit a woman at her house and commit rape. The victim is 27 years old married lady having seven years old son. It does not stand to reasoning that she had remained silent on account of verbal threatening because, it is not alleged that accused was armed with any weapon. So, the version of victim that accused

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committed a forcible rape, is highly improbable and unbelievable.....

17. *However, a perusal of testimony of PW-2 and PW-3 shows that victim disclosed about the incident only after her husband and brother came to know about the accused Sandeep. PW-2 Joginder Singh husband of victim stated that in the month of July 2016, his wife had gone to her brother at Delhi. On the mobile phone of their house, he started receiving some calls from an unknown boy. On enquiry, it came to his knowledge that caller was Sandeep accused present in the Court. When his brother-in-law made a telephonic call to accused, he also misbehaved with him. On 04.08.2016, his wife and his brother-in-law came to his house and she narrated all the incident to him and his brother-in-law.”*

We are agree with the above said reasons given by the trial Court and we are not inclined to allow the application for leave to appeal.

Hence, the application for leave to appeal is dismissed.”

4. In view thereof and for the same reasons, the present application filed by the victim is also dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

February 12, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No