

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

212

CRA-AD-312-2022

Date of Decision : August 16, 2023

X

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Deepak Arora, Advocate for the appellant.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR. J.(Oral)

1. The instant appeal is directed against the verdict of acquittal, as became made on 6.8.2022 by the learned Sessions Judge, Shaheed Bhagat Singh Nagar, upon, Session Case RBT No.63 of 2021. The accused faced trial for the commission of offences punishable under Sections 354, 354-D, 376, 506 and under Section 420 IPC. As above stated, the accused was acquitted through the verdict (Supra), as became drawn by the learned trial Judge concerned.

2. Initially, the prosecutrix is a married lady, and, thus had at the relevant stage rather acquired the age of meteing lawful consent for hers being allegedly repeatedly subjected to sexual intercourse(s).

3. Be that as it may, the prosecutrix has also alleged against the accused that he had snatched from her a sum of Rs.1,30,000/-. However, the above attribution of criminality to the accused appears to become completely faded. The reason for drawing the above conclusion

emanates from the fact, that the prosecutrix had made a statement, before the Deputy Superintendent of Police, Shaheed Bhagat Singh Nagar, and, to which Ex.PW1/B was assigned. However, in the said exhibit, there is no reference to the above sums of money as became allegedly snatched from her by the accused. Therefore, if at that stage, the said speaking was made in Ex.PW1/B, and, it was also repeated in the apposite FIR, thereupon this Court would thus assign the apt credence to the consistent speakings made by the prosecutrix, hence both in Ex.PW1/B, and, in the apposite FIR. However, despite the prosecutrix not making the said speaking yet upon hers appearing before the learned trial Judge concerned, she rather made them there, thereby the said speakings as made only before the learned trial Judge concerned, thus acquire the blemish of concoction and pre-meditation.

4. Further-more there is also no iota of evidence existing on record so as to bring forth a firm conclusion for this Court, that as a matter of fact, the prosecutrix rather had from the bankers concerned, thus withdrawn moneys. In the absence of above evidence, it has to be concluded that the attribution of criminality, to the present accused, inasmuch as, his snatching the said money(ies) from her, rather thus appears to be completely engineered as well as appears to be pre-meditated, thereby no credence has to be assigned to the said attribution of criminality to the present accused.

5. Apart from the above, rather trite evidence became brought on record by the accused, thus displaying that one Gurpreet Singh had instituted two complaints against the husband of the prosecutrix, namely,

Rakesh Kumar, in respect of the offences arising from dishonour of the cheques, as became issued by the husband of the prosecutrix to the accused. Consequently, it appears that the prosecutrix with a malafide intention, to wreck vendetta, upon, the accused rather has taken to propagate against him a false story, qua his snatching the above sums of money from her.

6. In addition, it also appears from the evidence on record, that compromise(s) were struck in respect of the said dishonour of cheques, as became issued by the husband of the prosecutrix to the accused. The said compromises are carried in Ex.D2, and, Ex.D3, and, thereons occur the signature of the prosecutrix. Though the prosecutrix has taken to deny the makings of the said exhibit(s) but the said denial is frail in the wake of hers not denying her signatures as are carried thereons. Resultantly, an inference is secured that a dispute has arisen between the accused and the husband of the prosecutrix, and, the said dispute arose from dishonour of cheque issued by the husband of the prosecutrix hence to the accused. Therefore, also the above made inference, that merely for wrecking vendetta against the present accused, the prosecutrix had launched criminal prosecution against the present accused, thus gets therefrom clinching fortification.

7. In summa the launching of the criminal proceedings (Supra), by the prosecutrix, appears to be a well engineered and a well deliberated ploy, just for merely implicating the accused in a false case.

8. Now dealing with the aspect of the accused purportedly subjecting the prosecutrix to repeatedly sexual intercourse(s). The said

attribution also appears to become complete eclipsed, in the face of the above made inference, and, which suggests that the accused, has been falsely implicated by the prosecutrix, merely for wreaking a revenge or perpetrating vendetta, thus on account of the fact that there was a dispute inter-se the accused and the husband of the prosecutrix, which arose out of dishonouring of the cheque(s), as issued by the husband of the prosecutrix, to the present accused. Apparently also, when it has to be also concluded, that in the face of the above dispute emerging amongst the above, the prosecutrix has chosen to smother the said dispute, through hers taking to employ a well designed maneuver, of falsely inculcating the accused, for the offence relating to hers becoming allegedly subjected to repeated sexual intercourse by the accused.

9. The prosecutrix was required to narrate the specific dates, thus whereons she became subjected to repeated sexual intercourse by the accused. However, the above specific dates, whereons, she became subjected to sexual intercourse, are completely amiss in the apposite FIR. Therefore, merely on the basis of vague and unspecific dates, whereons she allegedly became subjected to repeatedly sexual inter-courses, by the accused, thus cannot lead to any conclusion, that the prosecutrix has put forth, either any precise pin pointed speaking nor this Court can as such conclude, that the prosecutrix on certain specific dates became allegedly subjected to repeated sexual intercourse, thus by the accused.

10. The best scientific evidence, though may become comprised either in the MLR drawn in respect of the prosecutrix or in the report of FSL concerned, whereto became sent for examination, the vaginal swabs

of the prosecutrix alongwith the semen of the accused. However, even the above best scientific evidence, does not support, the charges drawn against the present accused. The reason for drawing the above conclusion thus primarily stem, from the report Ex.PW11/B. The result of the apposite examination(s), as made by the Serologist, after making the apposite tallyings, reveals that semen as was found in the vaginal swab of the prosecutrix, rather not matching with the DNA profile of the present accused.

11. Consequently, for the reasons assigned hereinabove, this Court finds no reason to interfere with the impugned verdict of acquittal, as made by the learned trial Court concerned. Consequently, the instant appeal is dismissed. The impugned verdict of acquittal, as made by the learned trial Court, is maintained, and, affirmed. The case property, if any, be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal. Personal, and, surety bonds, if any, furnished by the accused concerned, are ordered to be forthwith cancelled, and, discharged.

12. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 16, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No