

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

208

CRM-A-993-2019
Date of Decision : August 07, 2023

SAPNA

.....Applicant

VERSUS

STATE OF HARYANA AND ANR

.....Respondents

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

Present : Mr. Fariad Singh Virk, Advocate
for the applicant.

Mr. Ashok Singh Chaudhary, Addl. AG, Haryana.

Mr. Ashok Kaushik, Advocate
for respondent No.2.

SURESHWAR THAKUR. J.(Oral)

1. The prosecutrix/victim becoming aggrieved from the verdict of acquittal, as became recorded by the learned Additional Sessions Judge, Palwal on 10.10.2018, upon, case No.54 of 2017, thus became led to rear the instant application whereby she seeks leave to appeal thereagainst, hence before this Court
2. The accused-respondent in the instant appeal became charged for the commission of offences embodied under Sections 366/376(2) IPC.
3. After completion of recording of the depositions of the prosecution witnesses, and, thereafter on conclusion of the proceedings drawn under Section 313 Cr.P.C., wherein, the accused pleaded

innocence and claimed false implication, the learned trial Judge concerned, on hearing the arguments addressed before him by the learned PP concerned, and by the learned defence counsel, thus proceeded to make an order of acquittal, upon, the above drawn charges.

4. Both the learned counsel appearing on behalf of the aggrieved person/victim, and, the learned counsel for the acquitted accused, hence have been heard at length. Further-more with their able assistance, this Court has perused the records relevant for making a decision upon the instant appeal.

5. Tritely the statement of the prosecutrix concerned, but would inspire confidence, thus also only if she had neither direly improved, nor, had grossly embellished, upon, her previously made statements in writing, rather upon hers stepping into the witness box, besides had also not made any rife intra-se contradictions intra-se the speakings as made by her in her examination-in-chief, thus with the echoings occurring in her cross-examination. Resultantly, thereupon this Court would be led to assign credence to her statement.

6. Before proceeding to delve into the veracity of the statement made by the prosecutrix before the learned trial Judge concerned, it is deemed necessary to setforth the imminent fact, that the prosecutrix is a married lady, and, is also the mother of two children. Therefore, at the outset, since the prosecutrix/victim also appears to be a major, thereupon unless evidence surged forth in display, that the acquitted accused, had forcibly, and/or under the false pretext of marrying her, had weaned her

to his company. Therefore, this Court would be thus led to affirm the verdict of acquittal, as became made upon the respondent concerned, thus by the learned Additional Sessions Judge, Palwal.

7. As above stated, though on an incisive reading of the statement of the prosecutrix, thus for drawing an inference whether it can be assigned evidentiary vigor, given qua hers evidently not grossly improving, upon, her previously made statement in writing, and/or her deposition, as made before the learned trial Judge concerned, thus being free from the vice(s) of intra-se contradictions intra-se her examination-in-chief, thus with her cross-examination, rather reveals that though she has rendered a taint free deposition in respect of the crime event.

8. Be that as it may, since a reading of the examination-in-chief of the prosecutrix also suggests that she had voluntarily taken to the company of the accused. Therefore, the said made unrebutted speaking by the prosecutrix, thus in her examination-in-chief, rather obviously, as aptly inferred by the learned trial Judge concerned, cannot but lead to any conclusion other than the one, as became aptly drawn by the learned trial Judge, qua thereby the charges drawn against the accused under Sections 366, 376(2) IPC rather becoming not cogently established.

9. Be that as it may, the further sequel of the victim/prosecutrix voluntarily joining the company of the accused, besides with hers staying in a rented accommodation(s), thus in the company of the accused at Jaipur, and, during course whereof, she alleges, that she became pregnant, on account of physical relations developing amongst them, thus brings

forth a firm conclusion, that the alleged sexual indulgences by the prosecutrix with the accused, but becoming also inferable to be entirely consensual.

10. The prosecutrix has yet in her examination-in-chief, spoken that the said meetings of consent by her to the accused, for the latter subjecting her to coitus, rather arose from the accused purveying an allurement to marry her. However, if the victim/prosecutrix was not married, then may be, the said succumbings by her to the sexual overtures of the accused, may have been concluded, to, thus arise from the latter making to her a false pretext of his marrying her. Apparently, since the victim/prosecutrix is a married lady, and, also has two children from her wedlock with one Amar. Therefore, the said pretext of hers thereby succumbing to the sexual overtures of the accused, but cannot be said to be become engendered, by the accused rather making any purported false pretext of his marrying her, but obviously when the said allurement of marriage, as became proffered by the accused to the victim/prosecutrix, rather was unamenable from being fully galvanized/potentialised, evidently given the prosecutrix at the relevant stage rather being a married lady. Consequently, the effect of the above discussion, is that, the physical relations, if any, as become developed by her with the accused, were entirely consensual, and/or, were not ridden with any vice of his purveying to the victim/prosecutrix, any allurement of his marrying her. Therefore, for the above stated reasons the charges drawn against the accused were aptly concluded by the learned trial Judge to thus not

becoming cogently established.

11. In consequence, this Court finds that the impugned verdict of acquittal does not suffer from any gross mis-appreciation, and, non appraisal of evidence, thus germane to the charge(s) drawn against the accused.

12. 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. Thus, leave to appeal against the verdict of acquittal, as made on 10.10.2018, upon, case No.54 of 2017, by the learned trial Judge concerned, is declined, thus, the application seeking leave to appeal is hereby dismissed. The impugned verdict of acquittal, as made by the learned trial Judge, 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.

13. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

August 07, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No