

\$~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 840/2018

NITISH KUMAR

..... Appellant

Through Mr. Siddhartha Manwal and Mr. B.K.
Gautam, Advs.

versus

STATE

..... Respondent

Through Ms. Meenakshi Dahiya, Addl. PP for
the State with SI Sunil Kumar

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

%

11.02.2019

Crl. M. (Bail) No. 1282/2018 (suspension of sentence)

1. Appellant impugns order on conviction dated 06.07.2018 and order on sentenced dated 07.07.2018 whereby the appellant has been convicted for the offences punishable under Sections 376/342/506/452 of the IPC and sentenced to undergo 7 years rigours imprisonment for the offence under Section 376 IPC, one year rigours imprisonment for the offence under Section 342 of the IPC, one year rigours imprisonment for the offence under Section 506 and three years rigours imprisonment for the offence under Section 452 of the IPC, besides payment of fine of various denominations for each of the offences.

2. The allegations against the appellant are that the appellant had stuck up a friendship with the complainant and is alleged to have

forcefully entered her house and committed the offence of rape upon her. Further the allegations are that thereafter the appellant promised to marry her and they continued to live together for about three years. A child was born, however, the child could not survive.

3. It is further alleged that the appellant kept on the friendship with her and thereafter the prosecutrix left the relationship out of her own volition.

4. Learned counsel for the appellant submits that the trial court has erred in not appreciating there is no evidence and the prosecution has failed to prove the case beyond reasonable doubt. Learned counsel submits that the trial court itself in the impugned judgment has noticed that there are some improbabilities in the evidence of the prosecutrix.

5. Learned counsel for the appellant submits that the improbabilities noticed by the trial court were sufficient to raise reasonable doubt on the guilt of the petitioner, however, the trial court, instead of giving benefit of doubt to the appellant, has examined the alleged falsity in the case of the defence.

6. Learned counsel for the appellant submits that there is no evidence to substantiate that the relations between the appellant and the prosecutrix was forceful. He submits that admittedly even as per the prosecution, prosecutrix stayed with the appellant for over three years before making the complaint.

7. Without commenting on the merits of the case, I am of the view that the appellant has made out a case for grant of suspension of sentence.

8. Accordingly, on appellant furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the trial court, the sentence of the appellant shall remain suspended during pendency of the present appeal.

9. The application is disposed of in the above terms.

CRL.A. 840/2018

10. List the appeal in due course as per its own seniority.

11. Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

FEBRUARY 11, 2019

‘rs’