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

CRM-A-465-MA of 2013

Date of decision: February 26, 2015

Prem Lata

.....Applicant

Versus

Bhappi and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Paramjit Singh Jammu, Advocate
for the applicant.

SABINA, J

Respondents had faced trial in a complaint filed by the applicant qua commission of offence punishable under Sections 323, 506/34 of Indian Penal Code, 1860 ('IPC' for short) and Sections 3(i)(x) (xi) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Trial Court vide judgment dated 21.01.2013 ordered the acquittal of the respondents of the charges framed against them. Hence, the present application under Section 378(4) of Code of Criminal Procedure, 1973 for grant of leave to appeal by the complainant.

The case of the complainant in brief was that accused belong to General category, whereas she belonged to Scheduled caste category. Husband of the complainant was serving in the Punjab Police as Assistant Sub Inspector. On 02.02.2006 at about 8:00 PM, children of the complainant started quarelling with the child of Gurmit Kaur. Complainant asked the children to stop quarelling with each other. In the meantime, respondent No.2-sister of Gurmit Kaur and respondent No.2-Veena Rani came there and started abusing the complainant. Complainant was abused by

them in the name of her caste. Complainant was slapped by respondent No.2.

I have heard learned counsel for the applicant and have gone through the record available on the file carefully.

Trial Court while ordering the acquittal of the respondents has held that in her cross-examination, complainant-applicant admitted that she knew Gurmukh Singh real brother of Bhappi (respondent No.1). Complainant further admitted that FIR No.19 dated 23.01.2006 had been registered against her husband under Section 18 of the Narcotic Drugs and Psychotropic Substance Act, 1985 and Section 13 of the Prevention of Corruption Act, 1988. Complainant further admitted that her husband was convicted and sentenced by the trial Court vide judgment/order dated 25.08.2011 and due to conviction in criminal case, her husband had been dismissed from service. Complainant further admitted that Gurmukh Singh brother of the accused Bhappi had appeared as a witness against her husband in the above said criminal case. Complainant further admitted that on 02.02.2006, her husband was posted as Assistant Sub Inspector at Police Station City Malout, though, he was under suspension at that time. Complainant admitted that on 02.02.2006, she had not been medically examined. CW-Indraj was relative of the complainant and he also belonged to Scheduled Caste category.

In view of the above facts, the learned trial Court rightly came to the conclusion that it was probable that complaint in question had been filed as brother of accused Bhappi, had appeared as a witness against the husband of the complainant. The allegations levelled by the complainant, in the present complaint, were enquired by the police and as per the report of

Deputy Superintendent of Police (D), Ferozepur, allegations were found to be false. It is probable that the complaint in question was lodged by the complainant with a view to pressurize witness Gurmukh Singh in the case registered against the husband of the complainant.

Hence, the reasons given by the trial Court while ordering the acquittal of the respondents of the charge framed against them, are sound reasons and call for no interference.

Their lordships of the Supreme Court in **Allarakha K. Mansuri v. State of Gujarat, 2002(1) RCR (Criminal) 748**, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

A Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001 (1) RCR (Criminal) 775**, while dealing with an appeal against acquittal, has opined as under:

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in *Ashok Kumar v. State of Rajasthan*, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

To the same effect is the ratio of the judgments of the Supreme Court in **State of Goa v. Sanjay Thakran (2007) 3 SCC 755** and in **Chandrappa v. State of Karnataka, (2007) 4 SCC 415**.

Similarly, in **Mrinal Das & others v. The State of Tripura, 2011 (9) Supreme Court Cases 479**, the Supreme Court, after looking into various judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by

observing as under:

“8) It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to re-appreciate, reconsider and review the evidence and take its own decision. In other words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are “compelling and substantial reasons”, for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed”

Hence, no ground is made out to grant leave to file an appeal. Accordingly, this application is dismissed.

**(SABINA)
JUDGE**

February 26, 2015

m.singh