

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

CRM-A-355-MA of 2013 (O&M)

Date of decision: 12.08.2016

Darshana Devi and another

...Applicants

Versus

Parveen and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. K.S. Malik-I, Advocate for the applicants.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicants have assailed the judgment dated 15.01.2013, passed by Additional Chief Judicial Magistrate, Rohtak, dismissing the complaint and acquitting the accused/respondent Nos. 1 to 4 herein of the charges framed against them under Sections 323, 324, 452, 506, read with Section 34 of the Indian Penal Code (for short 'IPC').

It is contended that the learned trial Court erred in dismissing the complaint without appreciating the fact that the applicants had fully proved their case beyond reasonable doubt by leading cogent and convincing evidence including the medical evidence whereby the applicants had proved the injuries sustained by

them. Complainant/applicant No.1 while appearing as PW-2 had duly corroborated the contents of the complaint in her evidence, however, the trial Court has not taken into consideration the same. The MLRs of the applicants were duly proved on record by virtue of testimony of CW-1, Dr. Suresh Chander.

Heard the learned counsel and perused the record carefully.

Along with the appeal, the applicant has filed CRM-31796-2015 for summoning and examining the material witnesses. The trial Court had afforded sufficient opportunities to the applicant to lead after charge evidence since 25.08.2010 and the trial Court had closed the evidence, vide order dated 03.11.2011, therefore, there is no strong and convincing ground to allow the present application which is hereby dismissed.

The applicants have alleged that respondents No.1 to 4 had given injuries to them while they had gone to milk the cattles. The onus to prove the contents of the complaint was upon the applicants, however, they have miserably failed to do so. Applicant No.2, Deepak had appeared as PW-1 before framing of charge and after framing of charge. The accused/respondent Nos. 1 to 4 sought to further cross examine PW-1, Deepak, however, he did not appear to face further cross examination. Moreover, applicant No.1, Darshana who is also stated to have received injuries at the hands of respondent Nos. 1 to 4, has not appeared to prove the complaint. Both the parties were

neighbourers and as per the complaint, the incident occurred on the street, however, none of co-habitants/independent witnesses were examined to substantiate the allegations levelled in the complaint. In the absence of any strong evidence, it is highly improbable that the applicant had actually received injuries at the hands of the respondent Nos. 1 to 4.

In the circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the special leave to appeal stands declined.

Dismissed being devoid of merit as well as on account of delay.

12.08.2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No