

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

Crl. Misc. No. A-1216-MA of 2016

Date of decision : 03.08.2016

Usha

....Appellant

versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.S Dhillon, Advocate, for the applicant-appellant

RITU BAHRI, J.

Crl. Misc. No. 20170 of 2016

For the reasons mentioned in the application, delay of 29 days in filing the appeal and application for leave to appeal is condoned.

The application stands disposed of accordingly.

Crl. Misc. No. A-1216-MA of 2016

This appeal is against the judgment of acquittal dated 27.01.2016 passed by learned Sessions Judge, Jalandhar whereby judgment dated 20.07.2015 passed by Learned Judicial Magistrate Ist Class, Jalandhar was set aside and respondent No 2 was acquitted of the charges framed against him.

Brief facts of the case are that on 13.06.2013, ASI Santokh Singh along with other police official was present at Partap Palace, Jalandhar in connection with checking of bad elements, whereas appellant/complainant got recorded her statement to the effect that on 17.05.2013, when she was taking a bath in the bathroom of her house, accused Jai Ram, who is her neighbour, climbed down from his house and entered in her house and started doing obscene acts by standing near her. The door of the bathroom was open as her

child is of young age. She told the accused that she is his paternal aunt (Chachi) and it was not good for him. She raised alarm after wearing clothes and opened the gate of her house. Upon this, accused ran away from the spot. This incident was witnessed by Gulzari Lal and Narinder Kaur. Thereafter, on her statement, F.I.R was registered against the accused.

After completion of necessary formalities of the investigation, challan was presented against the accused.

In order to prove its case, prosecution examined four witnesses and closed the evidence. Statement of the accused was recorded under Section 313 Cr.P.C but he denied the allegations levelled against him. He did not examine any witness in his defence evidence and closed the same.

The learned trial Court believed the version of the prosecution and convicted respondent No. 2 but the learned Appellate Court acquitted him.

After going through the judgment of learned Appellate Court, this Court feels that respondent No. 2 has rightly been acquitted, as in no person can be held merely on the testimony of the victim or the complainant. The complainant had failed to mention as to how accused could have entered the house of the complainant, which is surrounded by houses from three sides and had street in the front. Further, the prosecution has failed to click any photograph or site map of the house from where they could show that the house of the accused was adjoining to the house of the complainant. Further the eye witnesses Narinder Kaur and Gulzari Lal themselves stated that they reached the spot after 10-15 minutes of occurrence, which means that they could not have seen the accused who had allegedly left the house in hurry. Thus, the testimony as well as presence of these witnesses on the spot is doubtful.

There is also a delay in lodging the F.I.R and further there is a

discrepancy in the statement of the complainant regarding the date of the alleged incident.

Thus, the learned lower Appellate Court by taking into consideration the above said fact has rightly acquitted respondent No. 2 from the charges framed against him by setting aside the judgment of the trial Court.

Dismissed.

03.08.2016
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>