

CRA-D-1165-DB-2015 (O&M)

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

203

**CRA-D-1165-DB-2015 (O&M).
Decided on: August 2, 2017.**

Sukhjinder Kaur

.. Appellant

VERSUS

State of Punjab and others.

.. Respondents

*** * ***

**CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI
* * ***

**PRESENT Mr.Amit Dhwan, Advocate,
for the applicant-appellant.**

Mr.Ayush Sarna, Asstt. A.G. Punjab.

**Mr.Jatinder Pal Singh, Advocate,
for respondent No.6.**

M.M.S. BEDI, J. (ORAL)

Misc. application CM-24623-2015 is allowed.

For the reasons mentioned in the application, delay of
216 days in filing of the appeal is condoned.

Complainant has preferred this appeal under proviso to
Section 372 Cr.P.C. against the acquittal of respondent Nos.2 to 6, of charge
under Sections 313 read with Section 34 IPC by the Additional Sessions
Judge, Jalandhar, vide order dated 25.9.2014.

The prosecution was launched against the above said

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respondents on the allegations that the respondents had connived together and forcibly conducted the abortion of foetus of the appellant which was 7 months old. The prosecution agency had investigated the matter and filed report EX.DA finding all the allegations as false and recommended cancellation of the FIR. However, under the influence of the press, the matter was ordered to be further investigated resulting in the prosecution of respondent Nos.2 to 6. The trial Court has taken into consideration the entire evidence produced by the prosecution agency and acquitted above said respondents of the charges framed against them by granting them benefit of doubt.

With the assistance of counsel for the appellant, we have gone through the statements of the witnesses and the evidence which has been brought to our notice.

Main contention of the learned counsel for the appellant is that the medicines for abortion was recovered from respondent No.5 Usha Rani who is a Nurse.

After considering the contention of the learned counsel for the appellant, we are of the opinion that foetus having not been recovered in the present case; there being delay in registration of the FIR and a dual version regarding the culpability of the respondents having already cropped up at the initial stage on the basis of investigation, the trial Court has rightly granted the benefit of doubt to the private respondents. The trial Court has also given a finding to the effect that abortion cannot be performed with the medicines which are mentioned in EX.PW4/A, the

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recovery memo. The circumstance of complainant-appellant being suffering from anaemia on account of deficiency of haemoglobin and probability of foetus having died in the womb has also been taken into consideration. Besides this, the statement of PW.2 the mother of appellant Surinder Kaur that foetus had died in the womb of the appellant when she had met the appellant two days prior to the death of foetus, was also there.

In view of above circumstances, we do not find any ground to interfere in the order of acquittal of respondent Nos.2 to 6.

The appeal is dismissed.

(M.M.S. BEDI)
JUDGE

August 2, 2017.
raj arora

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No