

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

CRM-A-1126-MA-2016 (O&M)

Date of decision : 04.07.2017

Kamla Devi

...Applicant-Appellant

Versus

Dilbag and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

JITENDRA CHAUHAN, J. (Oral)

This special leave to appeal is directed against the impugned judgment dated 05.05.2016 passed by learned Judicial Magistrate 1st Class, Mohindergarh, whereby the accused-respondents were acquitted of the charges framed against them under Sections 147, 148, 427, 429, 448, 323, 379, 380, 447, 452 and 506 read with Section 149 IPC.

It is contended that the learned trial Court erred in passing the impugned judgment of acquittal in the face of specific allegations against the respondents that they on 24.08.2011 caused injuries to the applicant-appellant and her husband i.e. CW4-Kewal Ram, after forcibly entering into the house. The factum of suffering injuries by the applicant-appellant and her husband is duly established from their own statement and statement

of witnesses, namely, Desh Ram and Sandeep.

I have heard the learned counsel and perused the entire record on file.

As per the case of the applicant-appellant, she had purchased a plot from Ravinder Kumar, Sandeep and their mother Sumitra, on the said plot a room was constructed and the boundary wall was raised. As per case of the applicant-appellant on 24.08.2011, the respondents had forcibly entered into the house of the applicant-appellant and gave beatings to her and her husband. However, there is material contradiction in the statement of the applicant-appellant herself and her husband. The applicant-appellant had stated that the respondents had given beatings to her and her husband. On the other hand, her husband had deposed that the respondents had not given any beatings to him. Moreover, CW1-Desh Ram had stated that he did not witness the incident. As per the version of applicant-appellant, the respondents were armed with deadly weapons, but despite that fact and keeping in view the number of alleged assailants, no such injury has been suffered by her and her husband. Thus, the Court feels that the story put forth by the applicant-appellant with regard to assault appears to be highly improbable. Further, admittedly at the time of alleged occurrence, a civil litigation was pending between the parties. Therefore, the possibility of false implication or exaggeration on the part of the applicant-appellant cannot be ruled out.

In Chandrappa and Ors. v. State of Karnataka, 2007 (4)

SCC 415, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal were culled out:

- “(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.*
- (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*
- (3) Various expressions, such as, "substantial and compelling reasons," "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.*
- (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.*
- (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”*

Keeping in view the above, 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 in acquitting the respondents. This Court feels that the learned Judicial Magistrate 1st Class, Mohindergarh has passed the impugned judgment dated 05.05.2016 after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the present special leave to appeal is hereby declined.

Dismissed.

04.07.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No