

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

CRM-A-1435-MA-2016 (O&M)

Date of Decision: 23.10.2017.

Rekha Rani

... Applicant/Appellant

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Bhupeshwar Jaswal, Advocate for
Mr. Sameer Sachdeva, Advocate,
for the applicant-appellant.

JITENDRA CHAUHAN.J.

This is an application under Section 378(4) Cr.P.C seeking special leave to appeal against the judgment of acquittal dated 14.12.2015 passed by Sub-Divisional Judicial Magistrate, Baghapurana vide which respondent No.2 was acquitted in complaint case titled as “Rekha Rani vs. Bhola Singh” under Sections 354, 420, 323, 504, 506, 148 read with Section 149 IPC, Police Station Baghapurana.

Brief facts of the case as mentioned in the judgment passed by the trial Court are as under:-

“Brief facts of the case are that in the year August, 2010 accused No.1 Bhola Singh met with complainant and her husband and asked them to reside in his house and in lieu of that they had given Rs.25,000/-. On 10.08.2010, complainant withdraw

an amount of Rs.6000/- from her account and Rs.19,000/- borrowed from Mangal Singh son of Sher Singh and gave to the accused No.1 in the presence of her husband and above said Mangal Singh. Then accused allowed her and her husband to reside in his house after putting tarpal and allowed them to put their household articles. She further averred that accused No.1 told her that he will construct the room for them after bringing bricks and thereafter, he has not constructed the room. Later on, complainant asked him to make statement/writing but he did not make any writing regarding the above said amount by making lame excuses. In this way, accused neither constructed room nor paid the above said amount to the complainant. Due to that grudge, accused No.1 started quarrelling with the complainant and threatened her that he will throw her articles from the house. On 02.09.2010, accused No.1 in connivance with other accused beaten and torn her clothes and insulted her and threw away the household articles from his house and due to that complainant fell unconscious. Thereafter, her husband alongwith Khazan Singh and Mangal Singh

took him to Civil Hospital Baghapurana where she got medico-legally examined but the accused did not stopped and in connivance with doctors they abused her and threatened him that if she filed complaint or registered the case against them, then they will kill her. The complainant also reported the matter to the police and moved an application to the SSP, Moga but the concerned police flatly refused to take any action against the accused. Hence, this complaint.”

After holding trial, the learned trial Court observed that there was no corroborative evidence to prove the allegations of the complainant and her statement is also vague as no date, time has been mentioned when she had been allegedly beaten by the complainant.

It is contended that the Court below has failed to consider the material facts that the complainant has proved her case beyond shadow of reasonable doubt. The trial Court has failed to apply its judicial mind in the matter. Therefore, the impugned judgment deserves to be set-aside.

Heard.

A perusal of the impugned judgment shows that apart from the statement of the complainant, there is no evidence on record to substantiate the version of the complainant. Even the complainant has also failed to prove her case. Her testimony lacks

specificity with regard to the alleged beating given by the accused or her admission in the hospital as the applicant/appellant did not produce any document on record. In the absence of cogent and convincing evidence, a person cannot be convicted. Further, there is an unexplained delay of 157 days in filing the application seeking special leave to appeal. No cogent reason has been cited for delayed filing of application.

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.

Consequently, the special leave to appeal is declined and the application for condonation of delay is also dismissed.

23.10.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

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