

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

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CRM-A No.1806-MA of 2017 (O&M)
Date of Decision: November 21st, 2017

Sukhjinder Kaur

...Applicant

Versus

State of Punjab and another

...Respondent

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

Present: None.

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

CRM No.25263 of 2017

For the reasons mentioned in the application, delay of 135 days
in filing the appeal is condoned.

Application stands allowed.

CRM-A No.1806-MA of 2017

Appellant has preferred this appeal against the acquittal of
respondent No.2, Kulbir Singh who is paternal uncle of the appellant.

As per the story of the prosecution, respondent No.2 had entered
the house of the appellant when she was alone, abusing her father and he had
allegedly pushed the appellant down and made an attempt to commit rape and
she somehow managed to escape and run out of the house. Respondent No.2
was charged under Section 376 with the aid of Section 511 IPC and tried for
the said charge along with charges under Sections 452, 354 and 509 IPC.

We have gone through the judgment of the trial Court. The story
of the prosecution has been believed to be absolutely improbable and not
worthy of credence. The statement Exhibit PD recorded by the Magistrate on
07.09.2015 has also been considered by us. The trial Court has considered the

story of prosecution as improbable on the following grounds:-

- (i) No independent witness has come forward to support the case of the prosecution despite the fact that the house of the prosecutrix is situated on the main road.
- (ii) The delay in recording of the version of the prosecutrix creates doubt regarding the authenticity of the allegations.
- (iii) The probability of the accused present on the spot has been doubted.
- (iv) The controversy regarding property between the father of the prosecutrix and respondent No.2 and litigation pending regarding the property have been considered to be the circumstances for disbelieving the story of the prosecution.

Besides this, it had been a case of attempt for rape by using the provisions of Section 511 IPC.

After going through the judgment of the trial Court, we do not find any ground for reappraisal of evidence to arrive at a conclusion different from the one arrived at by the trial Court.

No ground for interference in order of acquittal passed by the lower Court rendered vide judgment dated 02.12.2016 is made out.

The application seeking leave to file appeal accordingly fails and is dismissed as such.

(M.M.S. BEDI)
JUDGE

November 21st, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

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