

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

CRM-A-720-MA of 2016 (O&M)

Date of Decision: 04.12.2017.

Santosh Kaur

... Applicant-Appellant

Versus

Kamaljit Singh Faujdar and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Charanje Lal, Advocate for
Mr. Surinder Sharma, Advocate,
for the applicant-appellant.

JITENDRA CHAUHAN.J.(ORAL)

This is application under Section 378(4) of Code of Criminal Procedure seeking special leave to appeal against the judgment of acquittal dated 18.12.2015, passed by Judicial Magistrate First Class, Jalandhar vide which the respondents were acquitted in complaint case filed under Sections 323, 341, 354 and 506 IPC.

The case of the complainant is that all the accused persons have been harassing complainant and her family members for the last two years. Accused Kamaljit Singh used to abuse her and her family members after consuming liquor. Whenever she used to stand at her gate, accused No.1 used to turn his tractor towards her with intention to cause her injuries. She moved complaints to police officers regarding the said acts and conduct of accused No.1 thereafter accused

No.1 apologized for his conduct before police and stated that he would

not repeat the same in future but despite that behaviour of accused did not change. On 06.08.2009 at about 7.00 pm when she came out of her house on her scooter, accused No.1 came on his tractor and on seeing her, he started abusing her. He obstructed her way with his tractor. He came down from his tractor and caught/touched her with intention to outrage her modesty. He called his wife and sister i.e. accused No.2 and 3 on the spot, who after coming started quarreling with the complainant and slapped her. He started making movie of the complainant. All the accused persons also started levelling false allegations against the complainant to mentally torture her. She reported the matter to police but no action was taken. Hence, the complaint.

After appraisal of the evidence, the learned trial Court vide judgment dated 18.12.2015, acquitted the respondents of the charges.

Feeling dis-satisfied, the present application for special leave to appeal has been filed under Section 378(4) Cr.P.C.

It is contended that the impugned judgment is against the facts and evidence on record. It has been proved on record that the respondents wrongfully obstructed the way of the complainant and voluntarily caused hurt to her. It has been proved by Nasib Chand, CW-2 that there was quarrel between Kamaljit Singh and Santosh Kaur/complainant.

Heard.

The Court below while returning a finding of

acquittal has noticed that though, as per the complainant many persons had gathered on the spot but she did not examine any witness to corroborate her version. Further, the complainant in her cross examination has stated that she did not depose in her examination-in-chief that in the year 2008 at about 9.30 p.m, a tractor was brought by Kamaljit Singh and the same hit into the gate of the house of the complainant. It was further admitted by her that she used to stop Kamaljit Singh from raising construction of shop. She admitted having a grudge against Kamaljit Singh for constructing a shop on extra land. Nasib Chand, CW-1 has deposed that he never witnessed any such occurrence as he was not present on the spot. CW-2 Nammi admitted that she deposed against Kamaljit Singh because he had moved various complaints against her daughter-in-law. She further deposed that no such occurrence took place in her presence.

Leave alone the bald statement of the complainant, there is nothing on record to corroborate the testimony of the complainant so much so there is no MLR depicting injuries suffered by the complainant. This being so, the Court feels that the trial Court has rightly acquitted the respondents. The judgment is perfectly valid. There is no flaw in the judgment.

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.

In *State of Rajasthan vs Shera Ram @ Vishnu Dutta*, (2012) 1 SCC 602, Hon'ble the Supreme Court has held as under:-

“13. When an accused is acquitted of a criminal charge, a right vests in him to be a free citizen and this Court is very cautious in taking away that right. The presumption of innocence of the accused is further strengthened by the fact of acquittal of the accused under our criminal jurisprudence. The courts have held that if two views are possible on the evidence adduced in the case, then the one favourable to the accused, may be adopted by the court. However, this principle must be applied keeping in view the facts and circumstances of a case and the thumb rule is that whether the prosecution has proved its case beyond reasonable doubt. If the prosecution has succeeded in discharging its onus, and the error in appreciation of evidence is apparent on the face of the record then the court can interfere in the judgment of acquittal to ensure that the ends of justice are met. This is the linchpin around which the administration of criminal justice revolves.

14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system but once the prosecution has proved its case and the evidence led by the prosecution, in conjunction with the chain of events as are stated to have occurred, if, points irresistibly to the conclusion that the accused is guilty then the court can interfere even with the judgment of acquittal. The judgment of acquittal might be based upon mis-appreciation of evidence or apparent

violation of settled canons of criminal jurisprudence.”
Consequently, the special leave to appeal is declined.

04.12.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

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