

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

CRM-A-848-MA-2016 (O&M)
Date of decision : 06.03.2016

Baldev Kaur

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajbir Singh, Advocate,
for the appellant.

JITENDRA CHAUHAN, J. (ORAL)

The appellant seeks leave to appeal against judgment dated 09.02.2016 passed by the learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri (for short, 'the trial Court'), thereby acquitting the accused-respondents in a criminal complaint under Sections 323, 427, 495, 506 and 34 of the Indian Penal Code (for short, 'IPC').

It is contended that on 15.02.2015, the accused/respondents in drunkard condition came to her house and gave beating to her while, the complainant/appellant and Champa Devi CW2 were sitting in the house of Champa Devi. The belongings of Champa Devi lying in the house were also damaged. The accused/respondent No.1 caught-hold of Champa Devi by her hair, accused/respondent No.4 caught-hold of her legs and threw her on the road and were threatened with dire consequences. It is contended that the learned trial Court failed in not appreciating the statement of CW1, complainant, CW-2, Champa Devi, CW-3, Gurnam Singh and CW-4, Daljit, which prima facie made out a case of summoning of the respondents. No evidence was led by the respondents to prove their defence. There is cogent

and convincing evidence to summon the respondents.

The complainant got recorded preliminary evidence and on finding a prima facie case, the accused/respondents were summoned to face trial under Sections 323, 427, 506 read with Section 34 IPC, vide order dated 10.07.2013.

In order to prove her case, the complainant/appellant examined herself as CW1, Champa Devi as CW2, Gurnam Singh as CW3 and Daljit Singh as CW4. Thereafter, the complainant closed her evidence.

The statements of the accused/respondents under Section 313 Cr.P.C. were recorded, to which they pleaded innocent and opted to face trial. No evidence was led in defence.

The complaint was dismissed after noticing the material contradictions in the statement of complainant with regard to the presence of injured Champa Devi. In the complaint, Champa Devi is stated to be present in her house and it is submitted that the injuries were inflicted inside the house, whereas, the injured CW-2, Champa Devi, in her cross-examination has specifically stated that the incident took place in the street and she was alone when the accused pushed and abused her. The presence of police had also come in the complaint but no evidence could be led to establish the presence of the police on the spot. It was also noticed that parties had been engaged in civil litigation with regard to Gram Panchayat property. No MLR was carried out on the complainant or the injured Champa Devi.

Hence, the instant application.

I have heard the learned counsel and perused the entire record

on file.

In State of **UP Vs. Ram Sajivan and others**, 2010 (1) SCC 529, Hon'ble the Supreme Court of India, observed as under:-

“In the case of Raj Narain v. State of U.P. & Others [Criminal Appeal Nos. 891-892 of 2002 decided on 18.09.2009], this Court reiterated the aforesaid view and held that even if two views are reasonably possible, one indicating conviction and other acquittal, this Court will not interfere with the order of acquittal. However, this Court will not hesitate to interfere with such order if the acquittal is perverse in the sense that no reasonable person would have come to that conclusion, or if the acquittal is manifestly illegal or grossly unjust.”

In this case, there are contradictions in the statements of the complainant/appellant with regard to the place of occurrence and the number of accused present at the spot. In her examination-in-chief, the complainant has deposed the date of incident as 05.02.2012, however, CW2 Champa Devi has deposed date of incident as 15.02.2012. Complainant had stated that the accused persons had threatened her and Champa Devi, whereas, Champa Devi stated that she was alone on the spot. Furthermore, none of the injured were got medico legally examined which further falsifies the testimonies of the witnesses. The testimonies of complainant/appellant in the absence of any cogent evidence on the file seems to be an exaggeration and this appears to be untrustworthy. The parties are engaged in civil litigation with regard to a piece of land allegedly owned by the Gram Panchayat.

It is a settled law as has been held in **C. Antony Vs. K.G. Raghavan Nair, 2002(4) R.C.R. (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 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 the instant case, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record.

In view of the above discussion, this Court is of the considered opinion that the findings recorded by the trial Court are based on correct appreciation of facts and evidence on record and no illegality or perversity can be said to have been committed by it. The complainant/appellant has miserably failed to prove her case against the accused-respondents beyond a shadow of reasonable doubt.

In view of the above, the present appeal is dismissed and the impugned judgment rendered by the trial Court is affirmed.

06.03.2017
adhikari

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No