

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
220**

**CRM No. 5554 of 2015 and
CRM-A-275-MA of 2015**

Date of decision: 19.09.2017

Meena Rani

...APPELLANT

VERSUS

State of Haryana and another

....RESPONDENTS

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

Present: Mr. Diwan S. Adlakha, Advocate,
for the appellant.

Ms. Shubhra Singh, Additional Advocate General, Haryana.

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

CRM No. 5554 of 2015

Prayer in the misc. application is for condonation of delay of 51 days in filing of the application for leave to appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 51 days in filing of the application for leave to appeal is condoned.

CRM-A-275-MA of 2015

This is appellant's application for leave to appeal against acquittal of respondent No. 2 in a case registered against him by the applicant-complainant alleging that she was assaulted by respondent No. 2- Raj Kumar and four others resulting in injury on her stomach, as a result of which, she suffered abortion.

On the basis of the preliminary evidence adduced by the appellant, respondent No. 2-Raj Kumar was summoned but on the basis of the appreciation of evidence, the trial Court granted benefit of doubt to respondent No. 2 by observing as follows:-

“30. In this case, cumulative testimony of complainant Meena Rani (PW2) and her husband Suresh Pal (PW5), even coupled with medical evidence is not sufficient to prove case against the accused. There is doubt regarding the incident having been taken place as stated by the complainant. There is doubt that any such injury was caused to the complainant on her abdomen by giving kick blow on the part of the accused. The bleeding caused to the complainant being a result of alleged injury cannot be proved beyond reasonable doubt. There is no witness from the locality to the incident despite the alleged occurrence took place in day time in a fully inhabited locality. The delay in pursuing the matter in the form of private complaint has not been explained. Moreover, it is absolutely improbable that had the incident as alleged been in continuation up to the time the complainant and his uncle reached the spot, then there would have been number of injuries on the person of the complainant. Medically the position would not have been that there was no external injury mark on the body of the patient. As it is even before the doctor who had conducted MLR no such history was given that she was given blow in abdomen or that she was pregnant. There is also no such medical evidence that any abortion was conducted. No gynecologist has been examined.

31. Thus, keeping in view the entire discussion, the necessary ingredients to attract the offence punishable under Section 313 of Indian Penal Code being not proved in this case, the prosecution has failed to substantiate its case against the accused beyond shadow of reasonable doubt and thus, the accused is hereby acquitted of the charge framed against him while extending the benefit of doubt. His bonds stand discharged accordingly. After due compliance, file be consigned to records.”

After going through the judgment of the trial Court and perusing the statements of complainant as PW2 and her husband Suresh Pal as PW5 in context to the medical evidence produced, we do not find any infirmity in the order of acquittal passed by the trial Court giving benefit of doubt to respondent No. 2. In the given circumstances, we have carefully examined the definition of abortion given in Section 312 IPC and keeping in view the same, the necessary ingredients to attract the offence punishable under Section 313 IPC have not been established beyond shadow of doubt.

There is no ground for interference in the order of acquittal. No ground is made out for granting leave to appeal. Application is, therefore, dismissed.

(M.M.S.BEDI)
JUDGE

September 19, 2017
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No