

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

**CRM-A-1395-MA of 2017(O&M)**  
**Date of Decision: April 20, 2018**

Bimla Devi

..... Appellant

Versus

Karan Singh and others

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr.Mukesh Yadav, Advocate  
for the applicant-appellant.

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**LISA GILL, J (Oral).**

**CRM-19592 of 2017.**

Prayer in this application is for condonation of delay of 31 days in filing the present appeal.

Keeping in view the averments in the application duly supported by an affidavit of the applicant as well as the arguments addressed, it is considered just and expedient to condone the delay of 31 days in filing the present appeal and hear the matter on merits rather than dismiss it on technical grounds of delay.

In view of the above, delay of 31 days in filing the appeal is condoned.

Application is accordingly allowed.

**CRM-A-1395-MA of 2017**

The applicant seeks leave to appeal against judgment dated 18.02.2017 passed by the learned Sub-Divisional Judicial Magistrate, Kanina, whereby respondents No. 1 to 4 have been acquitted of the charge under Sections 323, 342, 506, 34 of Indian Penal Code ('IPC' for short) and consequently, the complaint filed by the applicant has been dismissed.

Brief facts necessary for the adjudication of the case are that a complaint was filed by the applicant with the allegations that on 09.03.2012, at about 11.00.a.m., when she alongwith her son and grandson were proceeding on a motorcycle towards Mohindergarh, respondents no.2 and 3 waylaid them. Respondent no.1 alongwith two/three unidentified persons arrived and started beating them. The complainant's grandson was thrown away. The complainant was allegedly taken to the fields where the accused tried to outrage her modesty. Both the son and grandson of the complainant, it is stated received serious injuries. Medical treatment was afforded to them. DDR No. 7 dated 17.03.2012 was registered in this respect, but no action was taken by the authorities, thereby, constraining the complainant to file the above said complaint.

Preliminary evidence was led. The complainant herself stepped into the witness box as CW-1 and examined Rakesh as CW-2 in her preliminary evidence. All the accused were summoned to face trial under Sections 354, 384, 506 IPC vide order dated 05.06.2014.

All the four respondents appeared before the learned trial Court and in the pre-charge evidence, the complainant examined herself as CW-1, Radheyshyam as CW-2, Krishan as CW-3 and EASI Balbir Singh as CW-4. Pre-charge evidence of the complainant was closed by order on 16.12.2016.

Charge against the accused was framed, to which they pleaded not guilty and claimed trial.

The complainant was examined as CW-1, MHC Satender Kumar as CW-2 and Dr. Vikas Tekwani as CW-3 in the after-charge evidence which was closed on 08.02.2017.

Statements of all the accused under Section 313 Cr.P.C., were recorded, wherein they denied the incriminating evidence put to them. They

pleaded innocence and false implication. Documents Ex.D-1 to Ex.D-15 were tendered in defence.

Learned trial Court on consideration of evidence on record concluded that the complainant failed to prove the allegations against the accused persons, thereby acquitting them of the charges against them. It is specifically mentioned that the ocular version is at variance with the medical evidence on record. Moreover, there is admittedly a dispute regarding property between the complainant and respondent no.1. Evidence of the complainant and her son in respect to the incident in question was not found to be reliable.

Hence aggrieved this appeal has been filed.

Learned counsel for the appellant argues that the impugned judgment dated 18.02.2017 has been wrongly passed and the respondents wrongly acquitted of the charges against them. It is submitted that the complainant has given a consistent version of the events as they unfolded. All ingredients of the offences in question are proved on record and are indicative of the guilt of all the accused. Therefore, the impugned decision should be set aside and the accused be convicted as charged and sentenced accordingly.

I have heard learned counsel for the applicant and have gone through the file with his able assistance.

It is not denied that the incident in question is alleged to have taken place on 09.03.2012 at 11.00.a.m. DDR in respect to the incident was registered on 17.03.2012 after considerable delay. As per the ocular version given by the complainant, she alongwith her son and grandson were dealt serious injuries by the accused. The complainant's son Radheyshyam is stated to be soaked with blood. However, the Medico Legal Report of

Radheyshyam does not reflect any such injuries. It is only pain and tenderness in the left and right elbow joint, throat, chest and scrotal region which finds mention therein. Medico Legal Report of the complainant also reflects only pain and tenderness in the abdomen and back. Similarly, as per the Medico Legal Report of the complainant's grandson-Rajesh, complaint of pain and tenderness in the left hip joint and left thigh is mentioned. Dr. Vikas Tekwani-CW-3, specifically deposed that none of the three persons as above had any visible injuries and he advised x-ray only because of complaint of pain. Clearly, the medical evidence on record does not corroborate the ocular version put-forth by the complainant in any manner. There is no such injury on the person of the complainant reflecting that she was ever dragged by the accused in the fields neither are there any injuries upon her knees or elbow as mentioned by her. CW-2-Radheyshyam stated that blood oozed out of the injury he received on his head. He further stated that he sustained injury on his left eye. However, a perusal of the medico legal report of Radheyshyam does not corroborate the same.

It is not denied that dispute between the complainant and the accused started after property was purchased by accused no.1 from the complainant's husband. This is so admitted by the complainant. Learned counsel for the applicant is unable to dislodge the findings of the learned trial Court to the effect that the main cause of grudge lies elsewhere and the complainant has indeed failed to prove her case beyond reasonable doubt. Learned trial Court has rightly held that the evidence of the complainant and the testimony of the witnesses cannot be relied upon to render a conclusive decision of guilt of the accused.

The complainant has indeed failed to prove her case beyond the shadow of reasonable doubt against the respondents who have been rightly

acquitted by the learned trial court. Acquittal of an accused is not to be interfered with lightly and merely because another view may be possible. There have to be substantial or compelling reasons to reverse a finding of acquittal. Learned counsel for the applicant/complainant is unable to point out any substantial or compelling reasons which may warrant interference with the impugned judgment dated 18.02.2017.

The Hon'ble Supreme Court in **Mahamad Khan Nathekhan v. State of Gujarat (2014) 14 SCC 589** while reiterating the basic principles in this respect has specifically held that in case of acquittal there is a double presumption of innocence in favour of the accused as it stands reinforced, reaffirmed and strengthened by acquittal of the accused, by the trial court.

Learned counsel for the applicant/complainant is unable to point out any perversity, infirmity or illegality in the impugned judgment dated 18.02.2017 passed by the learned Sub Divisional Judicial Magistrate, Kanina, which calls for any interference by this Court. Accordingly, leave to appeal is declined.

**April 20, 2018**  
s.khan

**[LISA GILL]**  
**Judge**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.