

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

Crl. Misc. No.A-1850-MA of 2017(O&M)

Date of Decision: 14.11.2018

Sunita

.. Applicant

Vs.

Ishwar @ Pappu

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Shailnder Sharma, Advocate
for the applicant.**

ANITA CHAUDHRY, J.

Delay condoned.

Leave to appeal has been sought to challenge the judgment dated 17.04.2017 passed by Judicial Magistrate Ist Class, Gurugram by which respondent was acquitted of the charge under Sections 323, 354 and 506 IPC.

The applicant filed a complaint alleging that on 29.05.2015 she had gone to her matrimonial home to condole the death of brother-in-law. The applicant was sitting with the women in separate portion. Respondent came there and in the presence of villagers and relatives, he gave a beating to her, hurled abuses and dragged her by putting hand in her blouse. The matter was reported to the police. No action was taken and later a complaint was filed in the Court.

In preliminary evidence, the complainant examined herself as CW1. Her mother Vidya Devi and sister-in-law Meekankshi stepped into the witness-box as CW2 and CW3 respectively.

Charge under Sections 323, 354 and 506 IPC was framed and the aforesaid witnesses were examined in the after-charge evidence, besides Const. Pardeep Kumar as CW4.

Respondent No.1 abjured the trial and examined two witnesses in defence.

On conclusion of trial, the court below observed that the prosecution had failed to prove its case against the respondent beyond shadow of reasonable doubt and recorded his acquittal.

Dis-satisfied with the same, instant application seeking leave to appeal has been filed by the complainant.

Lower Court record was requisitioned and the same has been perused.

On perusal of record it is found contradictory version about the incident had been made. By way of her preliminary evidence the complainant (CW1) did not state about the attempt made by the respondent to outrage her modesty. Nor this fact was mentioned in the first complaint (Ex.C1) given to the police. She had made improvements at the trial and had stated that the accused had put his hand in her blouse. The allegation that she was assaulted by the respondent and he tried to outrage her modesty, does not appeal to reason as the incident alleged is before number of villagers and relations who were present at the condolence meeting. The genesis behind the occurrence has not been shown. It was not mentioned as to why the attack was opened by the respondent. The statement of the applicant was not supported from any independent source though there were several persons. The witnesses produced were her mother and sister-in-law.

Feeble evidence about the criminal intimidation was led and it was not

mentioned as to in what manner the threat was extended. No medical evidence was produced. She admitted that she had enmity with the respondent who was father-in-law in relation. It was concluded that in the circumstances, it was unsafe to rely on the statement of the applicant and her witnesses, who were interested.

The trial Court elaborately discussed the facts and evidence and gave reasons in the judgment disbelieving her case. The findings returned are based on correct appreciation of evidence.

The High Court ought not to interfere with the order of acquittal unless the judgment of acquittal is perverse or highly unreasonable as held in **Vimal Singh Vs. Khuman Singh, 1998(4) RCR(Crl.) 423**. In the instant case, the judgment of acquittal rendered by the Court below is neither perverse nor unreasonable and it cannot be said that the court based its findings on irrelevant or inadmissible evidence. In the circumstances, the application for leave to appeal is dismissed.

November 14, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No