

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

Crl. Misc. No.A-735-MA of 2014(O&M)

Date of Decision: 27.09.2018

Raj Bala

.. Applicant

Vs.

Jasbir & Ors.

.. Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Argued by:- Mr. Vikram Singh, Advocate
for the applicant.**

ANITA CHAUDHRY, J.

Leave to appeal has been sought to challenge the judgment dated 25.03.2014 passed by Judicial Magistrate Ist Class, Hisar by which respondent No.1 was acquitted of the charge under Sections 323, 354, 452 and 506 IPC.

At the outset, it is mentioned that respondents No.2 to 6 were also arraigned in the complaint filed by the applicant and they were summoned initially by the trial Court, but were discharged vide order dated 24.01.2014. It was not shown that the discharge order was challenged. The applicant has still made them a party in this petition.

The complaint was filed by the applicant alleging that on the night of 19.07.2009, between 11:00 p.m. to 12:00 a.m., respondent No.1 entered her premises and tried to outrage her modesty. She raised alarm on which Naresh, Jaibir and Vikram came at the spot.

By way of preliminary evidence, the applicant stepped into the witness box as PW1, besides examining Naresh and Vikram.

After summoning, the applicant again appeared in the witness box and produced Naresh.

After framing of charge against respondent No.1, the complainant examined herself as PW1, Naresh as PW2 and Dr. Amit Kumar as PW3.

Respondent No.1 adjured the trial and produced documents in defence.

On conclusion of trial, the court below observed that the prosecution had failed to prove its case against the accused 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.

The case of the applicant rests on her statement as well as that of Naresh Kumar. Her witness PW Naresh admitted that he came to the spot after hearing cries. The bald statement of the complainant was found to be untrustworthy by the trial Court. That apart, in relation to the occurrence dated 19.07.2009, FIR No. 716 dated 21.07.2009 was registered against the applicant and others for assaulting respondent No.1. It was held that the complaint was filed in the Court as a counter blast and to put pressure upon respondent No.1 and his family members. She failed to report the matter to the local police or the higher authorities as the complaint produced on record was not found having receipt number etc. The complaint was filed in the Court after fifteen days.

The trial Court elaborately discussed the facts and evidence and

had given reasons in the judgment and disbelieved the prosecution 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.

September 27, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No