

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-A-958-MA-2016(O&M)

Date of Decision: 14.03.2022

Suman Rani

--Appellant

Versus

Kaptan Singh & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. J.S. Rozera, Advocate for the applicant.

RAJESH BHARDWAJ.J (Oral)

CRM-15200-2016

This is an application praying for condonation of delay of 32 days that has occurred in filing the present appeal.

For the reasons mentioned in the application, same is allowed.

Delay of 32 days in filing the present appeal is condoned.

Main Appeal

The present application seeking leave to appeal has been filed by the applicant praying for granting the special leave to appeal against the order of acquittal dated 1.2.2016.

Brief facts of the case are that the applicant filed a complaint under Sections 294, 354, 500, 506, 511, 34 I.P.C, wherein it was alleged that on 2.11.2011 the applicant went to Police Station, Butana with Saravjit Kaur and her husband Inderjit Singh, where a Panchayat was going on outside the police station. The respondent accused i.e. Kaptan Singh, Sahab Singh, Raj Kumar, Som Pal and Ram Diya were also present in the Panchayat. When the complainant started giving her opinion in the Panchayat the respondents/accused started threatening her. As the applicant did not succumb to the pressure of the respondents-accused, they used the criminal force and attempted to outrage her modesty. As a result, the

complainant filed the present complaint for taking legal action against the respondents. During the preliminary evidence the complainant and other 3 witnesses were examined. On completion of preliminary evidence the accused were summoned under sections 294, 354, 34, 506 I.P.C. Thereafter, the learned Trial Court conducted the pre-charge evidence. On conclusion of the trial the learned Trial Court came to the conclusion that the complainant has failed to prove her case against the accused persons beyond the reasonable doubts. As a result, the respondents were acquitted from the charges found against them. Aggrieved by the same the applicant has approached this Court impugning the acquittal order dated 1.2.2016.

It has been contended by learned counsel for the applicant that the learned Trial Court has failed to appreciate the evidence produced on record in a judicial manner. He submits that the applicant had specifically levelled the allegations against the respondents and had produced the evidence in support of the same but the learned Trial Court failed to appreciate the same. He submits that the case of the applicant was duly corroborated by the eye witnesses produced and the same could not have been discredited by the Trial Court. Counsel submits that the learned Trial Court has taken into consideration the inquiry report filed under Section 202 Cr.P.C and came to the conclusion that the testimony of the complainant herself is highly doubtful. He has submitted that the Trial Court was not bound to rely upon the inquiry report filed under Section 202 Cr.P.C. He further submits that the version of the complainant while appearing as CW-1 was duly corroborated by the other witnesses i.e. CW-2 and CW-3 and hence there was no occasion for the Trial Court to disbelieve the testimony of the credible witnesses. Hence the conclusion arrived at by the Trial

Court in acquitting the accused from the charges framed against them is totally unsustainable in the eyes of law. As a result, the respondents accused deserve to be convicted for the charges they were prosecuted by the Trial Court.

I have heard learned counsel for the applicant and have perused the record of the case.

It is apparent from the arguments raised and the record that the complainant appeared during the preliminary evidence as CW-1 and then at the time of pre-charge evidence. Similarly two other witnesses were also produced as CW-2 and CW-3 during pre-charge evidence. On the appreciation of the evidence, it was found that the complainant had improved her version at every stage of the proceedings. She filed a complaint before the police which is Ex. C-1. On the perusal of the same it was found that she mentioned only the verbal abuse given to her. However, when the present complaint was filed before the court, the version was found improved when compared with the version given as Ex. C-1. She rather admitted during her cross-examination that her mind was not working properly and hence she could not give all the facts in her application filed before the police and in complaint filed before the court. It has come during the investigation that her son was working under Sarpanch as Gram Sewak. The defence had specifically produced the evidence regarding the motive of the complainant for filing the present complaint. The copy of the judgement dated 5.8.2015 passed in criminal case no.72/2011 by the court of Sh. Vineet Sapra, JMIC, Karnal was placed on record. A perusal of the judgement in case titled "State Vs. Saravjeet Kaur & Inderjeet" would reveal that Sarpanch Saravjeet Kaur and Inderjeet had been convicted for

the offence in relation to the misappropriation of the funds of Panchayat. The fact had been admitted by the complainant in her cross-examination. One of the accused-respondents in the present complaint namely Ram Diya was the complainant in the criminal case against Saravjeet Kaur and Inderjeet Singh which resulted in their conviction. The FIR against Inderjeet Singh and Saravjeet Kaur was lodged by Ram Diya, whereas the present complaint had been filed by the complainant also against Ram Diya on 9.11.2011 as the son of the complainant was working under the Sarpanch Saravjeet Kaur as Gram Sewak and the FIR lodged by one accused in the present case namely Ram Diya resulted in conviction of Sarabjeet Kaur and Inderjeet Singh. The motive was found to have been established in lodging the present complaint. Besides this the learned Trial Court had also observed that there were material improvements made by the complainant at every stage discrediting the deposition made by the witnesses. Resultantly, the complaint was dismissed and respondents were acquitted.

It is a settled proposition of law that the appeal against the acquittal and the appeal against the conviction are governed by entirely different parameters of law. In the appeal against acquittal the appellant has to prove the perversity in the findings arrived at by the Trial Court. If there are two views possible then the view which is favorable to the accused is to prevail as per the settled law. Every accused is presumed to be innocent until he is proved to be guilty. Once the accused is acquitted by the court of law there lies double the presumption of innocence in his favour. Hence, once the accused is acquitted by the court of law, the same cannot be reversed on the basis of simple probabilities. The applicant having failed to show any perversity in the findings arrived at by the Trial Court and hence

this Court finds no perversity in the conclusion drawn by the Trial Court.

Being devoid of any merit, the present application seeking leave to appeal is accordingly declined.

(RAJESH BHARDWAJ)
JUDGE

14.03.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No