

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-A-1480-MA-2017(O&M)

Date of Decision:-11.12.2023

Mukesh Devi.

.....Appellant.

Vs.

Hileri Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Anjali, Advocate for
Mr. Devinder Arya, Advocate for the Appellant.

JASJIT SINGH BEDI, J.(ORAL)

The present application has been filed for grant of leave to appeal against the judgment of acquittal dated 22.12.2016 passed by Judicial Magistrate Ist Class, Narnaul.

2. The brief facts of the case are that the applicant-Mukesh Devi filed a Criminal Complaint No.43RT of 2013-15 under Sections 323,452, 354, 506 read with Section 34 IPC with the allegations that on 5.4.2013 respondent no.1-Hileri Singh the cousin brother of her husband started beating her, tore her clothes, hurled filthy abuses and outraged her modesty. When her mother-in-law Nandi Devi tried to rescue her, respondent no.1 alongwith respondent nos.2 & 3 started beating her and also abused her. On raising an alarm Karan Singh and Sunil Kumar came to the spot. In the fight Manju and Phoola Devi snatched her gold ear rings and other jewellery.

The witnesses rescued her from the clutches of the respondent/accused.

Based on the evidence led, the respondent no.1/accused was summoned under Sections 323, 354, 452, 506 read with Section 34 IPC and respondent nos.2 & 3/accused were summoned under Sections 323, 452, 506 read with Section 34 IPC.

3. On conclusion of the Trial, all the respondents/accused came to be acquitted by the court of Judicial Magistrate Ist Class, Narnaul vide judgment dated 22.12.2016.

4. The present application for grant of leave to appeal has been filed challenging the said judgment of acquittal.

5. The Counsel for the applicant contends that the offence has been established beyond reasonable doubt and, therefore, the accused were liable to be convicted for the offences in question. The medical evidence was totally in consonance with the ocular account. Undue importance has been given to the one day delay for getting the medico legal examination of the complainant conducted. The Trial Court had not considered the statements of the witnesses in its proper perspective. Therefore, the said judgment was liable to be set aside and the accused ought to be convicted for having committed the offences in question.

6. I have heard learned Counsel for the petitioner.

7. A perusal of the file reveals that there are material improvements in the statements made to the police *viz-a-vis* the complaint filed in Court. The said improvements have been enumerated in some detail in para 13 of the impugned judgment. The occurrence purportedly took place on 5.4.2013 but the complaint was made to the police on 06.04.2013 on which date the medico legal examination was also conducted. This delay of 01 day creates a doubt in the case of the complainant as it does not stand to reason that an injured person would wait for a day to get her medico legal

examination conducted. Section 452 IPC is clearly not made out as the complainant herself has admitted that the accused lives in the same house. Further no independent witness has been examined despite the availability of the same and the case is based entirely on the deposition of interested witnesses. The earlier complaint submitted by the complainant to the police prior to the filing of the complaint in the court have also not been proved on the file.

8. In view of the aforementioned discussion, I find no reason to interfere with the well reasoned judgment of acquittal recorded by the Judicial Magistrate Ist Class, Narnaul and, therefore, the application for grant of leave to appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 11, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No