

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

**CRM-A-2050-MA-2017
Date of Decision: 20.12.2023**

GUTTI DEVI @ GUDDI DEVI

....Applicant-Appellant

Versus

HARI RAM & ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Chand Ram Olla, Advocate
for the applicant-appellant

HARPREET SINGH BRAR, J. (ORAL)

CRM-29167-2017

This is an application seeking condonation of delay of 73 days in filing the present petition.

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

CRM-A-2050-MA-2017

1. This instant application under Section 378(4) Cr.P.C is preferred against the order of acquittal dated 11.04.2017 passed by learned Chief Judicial Magistrate, Hisar vide which the respondent no.1 to 3 have been acquitted in

criminal complaint no. COMI/200/2010 dated 29.04.10 filed under Sections 193, 209, 420, 500 read with Section 34 of IPC.

2. The minimal facts as necessary for disposing this application are that respondents wanted to grab movable and immovable property of the applicant(now deceased through her adopted minor son Anshul) and in order to do so, respondent no.1 to 3 filed a civil suit qua the said property and impleaded the other co-accused as a defendant showing him as a guardian of the adopted son of the applicant on the false pretext that the applicant Guddi Devi was a lunatic and of unsound mind. The said applicant after putting in her presence in the said civil suit came to know that the other co-accused had already filed another civil suit qua her immovable properties by impleading other members of her family as defendants, in which she was similarly mentioned as a lunatic and of unsound mind. The applicant had never authorized the other co-accused to file the said civil suit. Further, the other co-accused arrived at a written compromise with the defendants in the said suit which was made part of the order dated 29.07.2006. However, the said other co-accused had no right to affect the compromise on behalf of the applicant. Meanwhile, she moved an application dated 23.07.2009 before SSP Hisar and after inquiry in the said application, the investigating officer submitted his report stating that the applicant was neither a lunatic nor of unsound mind and she had adopted Anshul of her free will, without any pressure or duress. Therefore, the applicant was defamed by the respondents.

3. Having heard the learned counsel for the applicant-appellant and after perusing the record with his able assistance, it is clear that the applicant

has not been able to prove the guilt of the respondents beyond shadow of reasonable doubt since there is no finding returned by the civil Court against the respondents that they had deliberately filed a suit with false averments against the applicant. Moreover, the said inquiry report could not be read into evidence since it was a photocopy and the inquiry officer was not examined by the applicant. Furthermore, the bar under Section 193 Cr.P.C operates as the proceedings qua the impugned judgement were not initiated in the complaint of a Court which decided the said civil suit. Therefore, the learned trial Court, after diligently considering the entire evidence on record, has correctly passed the impugned order of acquittal.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415).** A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others CRM-A No.3 of 2022 decided on 06.07.2023** has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

20.12.2023**(HARPREET SINGH BRAR)
JUDGE**