

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

224.

CRM-A No.968-MA of 2018 (O&M)

Date of Decision:16.11.2023

Raj Kumar

... Applicant/Appellant

Versus

Ramesh and others

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikrant Rana, Advocate
for the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)**CRM No.16971 of 2018**

Prayer in the application is for condonation of delay of 26 days in filing the present application.

For the reasons stated in the application, the same is allowed and delay of 26 days in filing the present application is condoned.

CRM-A No.968-MA of 2018

1. The present application has been preferred by the applicant-appellant under Section 378 (4) of the Criminal Procedure Code, 1973 against the judgment dated 04.01.2018 passed by the learned Judicial Magistrate 1st Class, Charkhi Dadri whereby the respondents-accused have been acquitted in the complaint case registered under Sections 325, 326, 506, 218 read with Section 34 IPC at Police Station Sadar Dadri.

2. In brief, the version of the petitioner-complainant was that on 13.10.2013 at about 3/4 P.M., he was working in his fields and Jyoti wife of Rajbir, who happens to be sister-in-law of the complainant, was making tea in her house

situated in the fields. Accused Ramesh, Naresh, Munni and Om Parkash came to the fields and tried to take away parts of trees in their vehicle to which the complainant objected. On this, the accused started abusing the complainant. On hearing the commotion, Jyoti wife of Rajbir also came on the spot. Accused Ramesh inflicted axe blow on right thigh of the complainant whereas Naresh inflicted axe blow on his left toe. Jyoti tried to rescue the complainant but accused Om Parkash and Munni inflicted injuries to her as well. As the police did not take any action against the accused persons, the complaint in question was filed.

3. On finding a *prima facie* case under Sections 323, 325, 506 read with 34 IPC against all the accused persons, they were chargesheeted accordingly to which they pleaded not guilty and claimed trial. In order to prove its case, the complainant examined as many as seven witnesses and closed the evidence.

4. Statements of the accused persons were recorded under Section 313 Cr.P.C. and the incriminating evidence was put to them to which they pleaded false implication and claimed their innocence.

5. The learned trial Court after appreciation of documentary as well as oral evidence adduced by both the parties came to the conclusion that prosecution version was not proved beyond reasonable doubt against the respondents-accused, thus, they were acquitted from the charges framed against them.

6. Learned counsel for the applicant argues the learned trial Court has gravely erred in acquitting the accused persons as the ocular evidence was duly corroborated by the medical evidence. PW-1/A Dr. D.S. Disodia, who had medico legally examined the applicant-complainant, duly proved the injuries suffered by him. Further, injuries suffered by Jyoti were also proved by the

doctor. It is also argued that minor discrepancies in statements of witnesses cannot be fatal to the prosecution case.

7. Having heard the counsel appearing for the parties and after perusing the record of the case with their able assistance, this Court finds no merit in the arguments raised by the counsel appearing for the applicant-appellant.

8. Admittedly, it is a case of version and cross version. The complaint filed by the applicant-complainant was an outcome of a land dispute between these two parties. The prosecution had deliberately concealed the fact that there was a cross-case filed against the complainant-Raj Kumar, Jyoti, Raj Singh, Sonia, Sharmila and Rajbir in which they were chargesheeted for the offence punishable under Sections 147, 148, 323, 324, 506, 34 IPC. Further, the respondents-accused herein had also suffered injuries on vital parts of their body, which were not explained by the prosecution. Therefore, the finding of the learned trial Court that the prosecution had not presented the true version and deliberately suppressed the material facts, based on which the respondents-accused were acquitted by giving them the benefit of doubt, does not warrant any interference.

9. 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* passed in CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched and fortified in favour of the accused after earning acquittal from the trial Court.

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

(HARPREET SINGH BRAR)
JUDGE

November 16, 2023
Pankaj*

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