

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

CRM-A-479-MA-2017

Date of decision: 12th July, 2023

Narinder Kaur

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajinder Sharma, Advocate for the applicant.

AVNEESH JHINGAN, J (Oral):

1. This application under Section 378(4) Cr.P.C. is filed for grant of leave to appeal against acquittal of the accused in a complaint case.
2. FIR was lodged for theft in the house of complainant. Cancellation report was filed, the protest petition filed by the applicant was treated as complaint.
3. On failure of the applicant to substantiate the allegations, the accused were acquitted vide judgment dated 24.10.2016, hence the present application.
4. Learned counsel for the applicant submits that the trial court erred in acquitting the accused and had not taken into consideration the testimonies of CW1 and CW2.
5. Heard learned counsel for the applicant and perused the record.
6. As per the complainant, on return from parental house she found that tractor, one *suhaga*, five quintals wheat and other items were

missing from the house and lock was broken. The neighbour informed the complainant that the accused had committed the theft. It was further alleged that on 26.2.2013, the accused gave beatings to the complainant and tried to kill her.

7. While dismissing the complaint, the trial court considered that the complainant had not stepped in the witness box to support the allegations. Apart from the bald statements in the complaint, there was no evidence to prove that the theft was committed by the accused. The person who had informed the complainant that theft was committed by the accused was not examined. Further no evidence was produced of injuries sustained by the complainant in alleged incident on 26.2.2013.

8. The scope for interference in appeal against acquittal is well settled. A Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001 (1) RCR (Criminal) 775**, while dealing with an appeal against acquittal held:

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in Ashok Kumar v. State of Rajasthan, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

9. In the absence of any evidence substantiating the allegations in the complaint, failure of the complainant to depose before the court, the conclusion arrived at by the trial court is plausible one. There is no legal or

factual error much less perversity in the judgment of acquittal.

10. The application is dismissed.

[AVNEESH JHINGAN]
JUDGE

12th July, 2023
mk

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No