

CRM-A-No.372 of 2020

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-A-No.372 of 2020
Date of Decision:19.12.2023

ADARSH KUMAR

... APPLICANT

VERSUS

NARESH KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the applicant.

-*-

HARPREET SINGH BRAR, J. (ORAL)

CRM-35383-2023

This is an application for condonation of delay of 50 days in filing the accompanying application under Section 378(4) Cr.P.C.

For the reasons mentioned in the application, the same is allowed and the delay of 50 days in filing the accompanying application is condoned.

CRM-A-372-2020

1. The instant application under Section 378(4) CrPC is preferred against the order of acquittal dated 22.10.2019 passed by learned Judicial Magistrate Ist Class, Jalandhar vide which the respondents have been acquitted in criminal complaint bearing CIS No. COMI/32301/2013 dated 08.08.2013 filed under Sections 307, 323, 324, 506, 148, 149, 120-B IPC.

2. The facts, briefly, are that the applicant-complainant alleged that respondents no.1 to 3 on 21.07.2013 at about 7.00 pm came into the house of the applicant and tried to take forcible possession of house No.103, Dilbag Nagar, Jalandhar. On the same day at about 10.00 pm, respondents disconnected the electricity connection of the applicant. On, 01.08.2013 at about 6.00 PM, respondents again in connivance with each other tried to make video of the applicant on mobile phone. Upon asking the reasons for the same, respondent no.2 caught hold of neck of the applicant with chunni and respondent no.3 raised Lalkara. After brutal beatings, applicant was admitted in the hospital and his wife Neetu Sharma filed application before SHO Basti Bawa Khel, Jalandhar.

3. Having heard the learned counsel for the applicant and after perusing the record with his able assistance, it is clear that after diligent appreciation of the complete evidence on record, the learned trial Court correctly concluded that the applicant has failed to prove his case against the respondents beyond the shadow of reasonable doubt which could establish the guilt of the respondents as initially the wife of the applicant filed application regarding the incident dated 01.08.2013 but there is no time, date or place mentioned in the application Mark-N and surprisingly, when people gathered at the place of occurrence wife of the applicant was not present to support the version of applicant. The learned Civil Court passed judgement Ex.DH on 30.09.2015 against the applicant. The learned Appellate court has also passed the judgment Ex. DG against the applicant on 05.04.2016 but in spite of that

the applicant failed to deliver the possession of the house to his father. Therefore, he took the possession himself through the court on 27.02.2017.

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* bearing No.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-complainant 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.

(HARPREET SINGH BRAR)
JUDGE

December 19, 2023
manisha

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No