

Criminal Revision No.3079 of 2017

Date of Decision: February 09, 2023

Kela Devi

...Petitioner

Versus

The State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Surinder Gandhi, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Lalit Kumar Narang, Advocate for respondents
No.2 to 4.

DEEPAK GUPTA, J.(Oral)

Respondents were acquitted in case FIR No.785 dated 23.10.2012 registered at Police Station City Rohtak under Section 506/34 IPC vide judgment dated 22.07.2016 by learned Judicial Magistrate Ist Class, Rohtak against which complainant of the case Kela Devi – present petitioner filed an appeal. However, learned First Appellate Court vide order dated 04.07.2017 dismissed the appeal on the ground that appeal was not maintainable there and rather appellant should have approached the High Court.

Learned counsel for the petitioner has relied upon Tata Steel

Vs. M/s Amba Tube Products Ltd., and others, PLR 2014 Vol.1 Page

1, wherein a Full Bench of this High Court has laid down that the victim, who is not the complainant in a private complaint case is not entitled to prefer appeal against acquittal under proviso to Section 372 Cr.P.C and his/her right to appeal, if any, continues to be governed by the unamended provisions read with Section 378(4) of Cr.P.C

In the present case, since the State prosecuted the matter, though the FIR was lodged on the complaint of petitioner, the appeal was

maintainable before the Sessions Court.

In view of the above, impugned order dated 04.07.2017 Annexure P.1 is hereby set aside. The Court of learned Additional Sessions Judge, concerned is directed to hear the appeal on its merits.

However, parties shall appear before the Court of learned Additional Sessions Judge, concerned on 27.02.2023.

Disposed of.

February 09, 2023

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**(DEEPAK GUPTA)
JUDGE**

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