

CRM-A-2809-2019 (O&M)

229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2809-2019 (O&M)

Date of Decision: 14.12.2023

RAMAN KUMAR

..... Appellant

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Krishan Kanha, Advocate for
Mr. Narinder S. Lucky, Advocate
for the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant application under Section 378(4) CrPC is preferred against the order of acquittal dated 28.09.2018 passed by learned Judicial Magistrate Ist Class, Jalandhar vide which the present respondent no.2 has been acquitted in criminal complaint dated 15.09.2012 filed under Sections 324, 427, 452, 506 & 34 of IPC.

2. The minimal facts as necessary for disposing this application are that on 10.04.2012, a verbal spat qua demolition of a latrine adjoining the house of the applicant-appellant by respondent No. 2 and two other accused turned into a physical one when the respondents started attacking him. While respondent no. 2 was armed with a pair of scissors and gave blow with the same on his left side of the abdomen, the other two co-accused also gave fist blows on body of the applicant-appellant. All three accused entered forcibly into his bedroom and gave him further beatings. He was then taken to a hospital and medico-legally examined on the same day. Complaint in this regard was made to the concerned police station but no action was taken by the

concerned SHO despite recording the statement of the applicant-appellants. After suffering multiple excuses by the police, the applicant-appellant filed the said criminal complaint before the learned Judicial Magistrate Ist Class, Jalandhar and subsequently, respondents no. 2 and the other two co-accused were summoned under Sections 324, 452 and 506 of IPC. During the trial, after arguments on charge were heard, the learned trial Court vide order dated 01.06.2018 discharged the other two co-accused from the present case whereas charge only under Section 323 IPC was framed against respondent no.2. No evidence after framing of charges was led by the applicant-appellant and ultimately it was closed by an order of the Court.

3. Having heard the learned counsel for the petitioner 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 has correctly concluded that the applicant-appellant/complainant failed to prove offence under Section 323 against respondent no.2 beyond reasonable doubt. Further, it was correctly observed by the learned trial Court that there are material contradictions between the statement of the eyewitness and the applicant-appellant. Moreover, even the medical evidence is contradictory to the account of both the persons, i.e., the eyewitness and the applicant-appellant/complainant. As per the settled law, a person cannot be convicted on the statement of single witness/injured even if the same is wholly reliable and trustworthy while in the present case there are material contradictions in the statements of the applicant-appellant and his witnesses. Therefore, respondent no.2 could not have been convicted on statements of unreliable witnesses.

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

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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.

(HARPREET SINGH BRAR)
JUDGE

14.12.2023
Ajay Goswami

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