

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-418-2023
Date of decision: 08.04.2024

Ranjit KaurApplicant-Appellant

Versus

Manjit Khan and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.R. Brinda, Advocate
for the applicant-appellant

HARPREET SINGH BRAR, J.

1. The present application is preferred under Section 378(4) Cr.P.C. against judgment of acquittal dated 05.10.2021 passed by learned Chief Judicial Magistrate, Fatehgarh Sahib in criminal complaint bearing no. COMI-172-2016 dated 06.12.2016 filed under Sections 323, 324, 354, 504, 506, 148 and 149 of the IPC.

2. Briefly, the facts are that on 18.11.2016, at about 9:30 AM, the applicant and her sister-in-law (*jethani*) Surinder Kaur were standing in the street where accused Sukhdev Singh was overseeing sewage work, to which they raised objection. Sukhdev called upon the respondents-accused herein to teach the applicant a lesson for causing a scene. Thereafter, Tony raised a *lalkara* and Manjit Khan, Roshan Khan and Ravi caught hold of the applicant and dragged her towards the house of Manjit Khan. Manjit Khan dealt a blow with his *daah* like weapon, which landed on the left arm of the applicant. Roshan Khan, Tony and Ravi gave fist blows to the applicant causing injuries on chest, right hip, left forearm and left wrist. Manjit Khan tore the shirt of the

applicant, exposing her right breast. The applicant raise alarm causing the accused to flee the spot.

3. Having heard the learned counsel for the applicant-appellant and perused the record with his able assistance, it transpires that while CW3-Avtar Singh was presented as an eye witness, in his cross-examination, he has admitted that he did not witness the alleged incident. The statement of the applicant was recorded regarding the alleged occurrence and DDR No. 32 dated 18.11.2016 was registered. However, the narrative in the DDR has material inconsistencies with the version in the complaint (*supra*). The statement based on which the DDR was registered does not mention CW3-Avtar Singh being present at the spot, the factum of applicant's shirt being torn or any sharp edged weapon used by Manjit Khan.

4. Further, the applicant was medico-legally examined by CW5- Dr. Navjot Kaur who observed four injuries on her person which include one incised wound measuring 10 cm X 0.5 cm on her left forearm. It was categorically mentioned that the possibility of self-infliction of the said incised wound cannot be ruled out. Moreover, CW5- Dr. Navjot Kaur has specifically opined that the said injury could not have been inflicted by a heavy weapon using heavy force. Furthermore, the alleged incident occurred on 18.11.2016 but the complaint (*supra*) was only instituted on 06.12.2016, after an unexplained delay of 20 days. Admittedly, there is political animosity between the parties on account of Gram Panchayat elections, which the uncle of the applicant-Mukhtiar Singh lost to Sukhdev Singh. Curiously, the applicant could not name any of the 4-5 people who gathered at the place of occurrence, in spite of being the resident of the concerned locality. While no independent witness

has been examined, CW2-Surinder Kaur, the only eye witness, has presented a completely different version of events wherein she mentioned Avtar Singh as her husband and not the applicant and claims that he was tortured by Mukhtiar Singh. Instead of reaffirming the version of the applicant, she claimed to be the victim of the alleged incident. However, in her cross-examination, CW2-Surinder Kaur has stated that when the applicant visited the hospital, she was wearing the same shirt which was alleged to be torn during the scuffle and it was categorically stated that the shirt was not fixed before arriving in the hospital. Therefore, the applicant's allegation regarding the outraging of her modesty remain unproven. The material placed on record does not inspire confidence in the version of events as narrated by the applicant.

5. 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. (**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 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.

6. 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 leave to appeal is denied.

7. Pending miscellaneous application(s), if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

08.04.2024
Neha

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