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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-183-2024 (O&M)
Decided on: 10.04.2024

MEENA KUMARI

...Appellant-Applicant

Versus

CHAMEL SINGH & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunil Agnihotri, Advocate
for the applicant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-5573-2024

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 26 days in filing the application under Section 378(4) Cr.P.C.

For the reasons mentioned in the abovesaid application, the same is allowed and the delay of 26 days in filing the aforesaid application is condoned.

CRM-A-183-2024

1. The present appeal has been preferred against the judgement 27.10.2023 passed by learned Judicial Magistrate Ist Class, Mukerian in Complaint Case No. COMI/53/2016 dated 02.06.2016 filed under Sections 323, 341, 452, 354, 354A, 354B, 506, 34 of IPC vide which the present respondents were acquitted of the charges framed against them.
2. Allegedly, on 20.12.2015, while the applicant complainant was cutting grass in her agricultural field, the respondents-accused came in a car and stopped near the field where the applicant was present. The respondents got out of the car and respondent no.1 raised a cry to take the applicant to nearby sugarcane fields. Then respondent no.1 came from the back and caught the breast of the applicant and squeezed it while forcibly trying to remove her clothes and also tore

her shirt from her shoulder with intention to outrage her modesty. Then respondent no.1 and 2 dragged the applicant towards the sugarcane field due to which she suffered injuries on her knees. Then respondent no.3 along with an unidentified person raised a cry to take her to the sugarcane field. Then the applicant raised hue and cry and somehow pushed respondent no.1 & 2 away and ran towards her. The aforesaid incident was witnessed by Shamsheer Singh who was working in a nearby field. The applicant was chased by the respondents but she managed to reach her house and narrated the whole incident to her mother. But the respondents did not stop and forcefully entered the house of the applicant. Respondent no.1 gave a fist blow on the nose of the applicant due to which her nose started bleeding while respondent no.2 caught hold of her from her arms. Then respondent no.1 and 3 slapped the applicant. When the mother of the applicant tried to save her, respondent no.3 slapped her and threw her on the ground. Then respondent no.1 pushed the applicant to the ground and started committing wrongful acts with her private parts. When the applicant and her mother raised hue and cry about the same, three persons namely Shamsheer Singh, Jankar Masih and Kashmir Singh came and rescued them from the respondents. Upon seeing the people gathering, the respondents fled away while threatening to repeat the said act on the applicant. The applicant was admitted in Civil Hospital, Mukerian where she was medico-legally examined. The matter was reported to the concerned police but due to the complacency of the police, the applicant filed the criminal complaint (supra). Ultimately, the learned trial Court acquitted the respondents. Aggrieved by their acquittal, the applicant has approached this Court by way of the present petition.

3. Having heard the learned counsel for the applicant and after perusing the record with his able assistance, it transpires that the complaint (supra) was filed by the applicant-complainant after six months of the occurrence of the

alleged incident without having approached the concerned police qua the same

before filing the said complaint. The applicant failed to give any explanation regarding the aforesaid delay. Further, the mother of the applicant deposed before the learned trial Court that she was also admitted in the hospital in regard to multiple injuries inflicted upon her by the respondents including two head injuries but failed to provide any medical proof or MLR. Also, the MLR of the applicant shows that she received three injuries, all being simple in nature, where the doctor concerned has clarified that all of the said injuries may be self-inflicted and may be caused by falling on ground. Interestingly, complainant witness CW1 has admitted the fact that the land belonging to respondent no.1 is in possession of the applicant which she is ploughing along with Janak Singh, thereby, supporting the contention raised by the respondents. A perusal of the site plan of the place occurrence reveals that only Shamsheer Singh was the actual eye-witness to the alleged incident but the applicant only examined him at pre-summoning stage but failed to examine him at pre-charge stage. Further perusal of the material available reveals material contradictions between the depositions of CW-2 Jankar Masih, wrongly cited as an eye-witness, and the mother of the complainant and both of which are not corroborated by any medical evidence available. Interestingly, the applicant has three or four brothers and four daughters but none of them came forward to depose against the respondents-accused. Further, the site plan of the sugarcane fields has not been proved by the applicant and no Khasra number or Khewat number has been mentioned. All the aforesaid facts clubbed together are sufficient for this Court to affirm the judgement passed by the learned trial Court.

4. Furthermore, 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 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

10.04.2024

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No