



**101-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-AS-19-2023 (O&M)
Date of decision: 22.08.2024

Harjinder KaurAppellant

Versus

Santokh Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rohit Singh, Advocate for
Mr. S.S.Dinarpur, Advocate
for the applicant/appellant.

HARPREET SINGH BRAR, J.

1. The present appeal has been preferred against the judgement of acquittal dated 26.03.2014 passed by learned Judicial Magistrate Ist Class, Ambala in complaint case No. 133-I of 2002 filed by appellant under Sections 323,452, 506, 504, 120-B, 354 of IPC as well as the judgment dated 03.09.2019 passed by the learned Sessions Judge, Ambala, whereby, the appeal stood dismissed.

2. The facts, in brief, are that the appellant filed a private complaint against the respondents, wherein, it has been alleged that her father, who was a *Havaldar* in Haryana Police, was embroiled in a frivolous case by other officials and was later on discharged. Respondent no.1, a few years back, forcibly entered the property belonging to her father and respondents no.2 & 3 also started residing there for a considerable period. On 11.08.2002, respondents no.1 to 3 entered the portion of the property where appellant was residing and proceeded to outrage her as well as her sister-in-law's modesty, in the absence of all the male members of the family. When they raised hue and cry, father of the appellant and some other people from the locality gathered at



the spot. On the night of 11.08.2002, when the family members of the appellant were present at the concerned police station, the respondents entered her house and illegally searched it and also gave beatings to her and other family members. Thereafter, a false case was planted upon the father of the appellant on account of allegations of quarrel between her father and other persons. It has been further alleged that SHO of the police station refused to record their statements and did not register a case against respondents no.2 & 3. Despite moving a complaint dated 14.09.2002 qua the aforesaid incident before the concerned police, no action was taken, thereby leading the appellant to file a private complaint. Trial ensued and subsequently, respondents no.1 & 4 were discharged but respondents no.2 & 3 were charge-sheeted under Sections 323 and 452 of IPC and then later acquitted of the same. Aggrieved, the appellant has approached this Court by way of the present appeal.

3. Learned counsel for the appellant inter alia vociferously contends that the impugned judgement of acquittal has been passed without appreciating the evidence on record in its entirety. He further submits that appellant had duly proved her case by leading cogent and plausible evidence and established the guilt of the accused beyond reasonable doubt. Further contends that it was proved on record that the concerned doctor colluded with the accused who are also police officials.

4. I have heard the learned counsel for the appellant and carefully perused the record with his able assistance. It transpires that the private complaint was filed by the appellant after an inexplicable delay of 2 months. Respondent no.1 is the uncle of the appellant and was one of the co-owners of the property alleged to have been usurped by him. Above all, the MLR (Ex.CW2/B) does not substantiate the serious allegations levelled by the



appellant as the same reveals that nature of injuries on the person of the appellant was self-inflicted. Record of the case reveals that respondents no.2 and 3 also suffered injuries at the hands of the family members of the appellant and in consequence, an FIR dated 12.08.2002 was registered under Sections 342, 332, 333, 353, 506, 34 of IPC against the father of the appellant as well as her brothers, who were later convicted vide judgment dated 09.10.2003. The case of the appellant is plagued by material contradictions which render her case unbelievable. In the opinion of this Court, the absence of any cogent medical evidence and independent corroboration vitiates the case of the appellant.

5. 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.

6. A two Judge Bench of Hon'ble Supreme Court in case of **Chandrappa (supra)** has laid down the parameters with regard to the power of



appellate Court while dealing with an appeal against an order of acquittal.

Speaking through Justice C.K. Thakker, the following was held:

"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own

conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

7. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court.



8. As such, there is no merit in the present appeal and hence, the same stands dismissed.
9. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

22.08.2024
Neha

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