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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-3284-SB-2013 (O&M)
Reserved on: 10.05.2024
Pronounced on: 13.05.2024

Vikram Chauhan

...Appellant

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Lamba, Advocate and
Ms. Manisha Lamba, Advocate and
Ms. Kriti Lohar, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG Haryana

Mr. Rahul Vats, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal is preferred against judgment of acquittal dated 22.08.2013 passed by learned Additional Sessions Judge/Special Judge (Crime Against Women), Palwal, in FIR bearing No.27 dated 06.04.2012 under Section 306 of the Indian Penal Code, 1860 (for short 'IPC'),



registered at Police Station GRP, District Faridabad.

2. The facts, tersely put are, that on 06.04.2012, information was received from Deputy Station Superintendent, Palwal that a woman was found entangled in the cattleguard of Down 18477 express train and had resultantly died. The occurrence took place somewhere between Rundhi and Palwal. Consequently, SI Satish Kumar along with other police officials reached the spot to commence investigation. The deceased was identified as Rachna by her brother, Vikram Chauhan (appellant-complainant), who got his statement recorded to the effect that his sister Rachna was studying at Golden Institute, Palwal. One Pankaj Chauhan (respondent No.2-accused) resided in front of their old house at Village Atohan. About ten months ago, Rachna told her mother that the accused was harassing and pressurizing her to indulge in a physical relationship. Her mother narrated the incident to the complainant and her father. Thereafter, the complainant along with his father and uncle went to the house of accused to call him out. Despite that, the accused did not change his behaviour towards the deceased and kept taunting her. Faced with this situation, father of the deceased left the old house and shifted to a new place, which was outside the village. On 06.04.2012, the complainant, who had gone to pick up her sister, saw that the accused and one other accomplice caught hold of the arm of his sister and forcibly tried to pull her inside a gray coloured vehicle. On seeing the complainant, the



accused fled from the scene. Later in the day, the deceased told her mother that the accused has made her life very difficult and he will not let her live. Subsequently, family of the deceased found her to be missing from the house. They tried to locate her, when a farmer informed the complainant that a dead body was lying on the railway track. The complainant identified the dead body to be of his sister. On the basis of this, a *ruqa* was sent to the police station for registration of the FIR.

3. On the basis of aforesaid complaint, FIR (*supra*) was registered against respondent No.2-accused and after completion of the investigation, *challan* was presented against him. Following that, respondent No.2-accused was charged for offence punishable under Section 406 of IPC, to which he pleaded not guilty and claimed trial.

4. The prosecution examined as many as 13 witnesses to prove its case. The statement of the accused under Section 313 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') was recorded, wherein respondent No.2-accused pleaded false implication, however, no witness was examined in order to prove his innocence.

5. After taking into account all the material available on record, respondent No.2-accused was acquitted by learned trial Court vide judgment dated 22.08.2013.

6. Learned counsel for the appellant assails the judgment of



acquittal on the ground that learned trial Court mechanically decided the case without due application of mind and not recording any reasoned and concrete observations. No link evidence is missing in the present case and the prosecution led ample evidence to prove the guilt of respondent No.2-accused. Learned trial Court returned a finding that the prosecutrix did not go to the institute on 06.04.2012, as no evidence was produced to prove the attendance of the prosecutrix on that day. However, the testimony of PW3-complainant clearly establishes that the accused hold the hand of the prosecutrix and tried to drag her towards his vehicle. Moreover, learned trial Court erred by not appreciating that respondent No.2-accused suffered two disclosure statements (Ex.PI and Ex.PL) and also got the place of occurrence demarcated vide memo Ex.PJ. Furthermore, all the inconsistencies of the testimonies of the witnesses are minor in nature, which only go to show that the witnesses were not tutored and the evidence adduced is credible. Lastly, there is no reason to falsely implicate the accused in the present case. Learned Court below completely disregarded the fact that the charge of offence punishable under Section 306 IPC has been clearly and unimpeachably proved, thus, leading to material irregularity and perversity.

7. Per contra, learned counsel for respondent No.2-accused submits that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, no interference is



warranted by this Court.

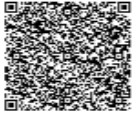
8. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement passed by learned trial Court to indicate perversity or misreading of evidence. As per cross-examination of the complainant, the attendance of the deceased was marked by the college on that fateful day. However, neither any attendance record of the deceased was placed on file nor any official of the institute was summoned to prove the attendance of the deceased at the college on 06.04.2012. On top of that, no document was brought on record by the prosecution to prove that the deceased was a student, enrolled in the final year of B.A. at the said college in the first place.

9. Furthermore, as per the testimony of Mukesh Gupta, Station Master, Railway Station, Palwal, he received information from Station Master, Railway Station Rundi with regard to death of a young girl, at 10.35 AM on 06.04.2012. Therefore, the deposition of the complainant that he went to the institute of his sister at around 12 p.m. on 06.04.2012 and saw the accused harassing her, does not inspire confidence. This is further fortified by the fact that PW-2 i.e. Kanta Rani, In-charge of the primary school, where the accused worked as a Teacher, specifically stated in her cross-examination that the movement register, which shows that the accused was absent from the school from 11 a.m. to 12:30 p.m. and which bore her signature, was



fabricated at the instance of the Panchayat on 18/19.04.2012. From the cross-examination of PW-2, it is duly proved that the accused was present at the school on 06.04.2012 throughout the duty hours. Additionally, father of the deceased, appearing as PW1, has categorically admitted in his cross-examination that the deceased was under tremendous mental stress because of the restrictions imposed upon her, which further corroborates the case for the defence that the deceased did not commit suicide, but due to harassment at the hands of respondent No.2-accused. Lastly, the deceased confided in her mother regarding the alleged incident, however, she has not been examined by the prosecution. Curiously, Rekha, cousin of the deceased, who was present at the spot, when respondent No.2-accused allegedly dragged the deceased into his vehicle, has also not been examined. As such, the prosecution case remains uncorroborated based on the material available on record, further reaffirming the innocence of respondent No.2-accused.

10. 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 Vs. State of H.P., 1973 (2) SCC 808 and***



Chandrappa and others Vs. 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 learned trial Court.

11. 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 the findings recorded by learned trial Court, which warrants interference at the hands of this Court. As such, there is no merit in the present appeal and the same is dismissed.

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

13.05.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No