

their house like this. Thereafter, he was taken to the police station and the FIR(*supra*) was registered.

3. Having heard the learned counsel for the applicant-appellant and perusing the record of the case with his able assistance, it transpires that respondent no. 1 has been convicted under Section 354 and 452 of the IPC and sentenced to undergo rigorous imprisonment for 3 years and fine of Rs. 5,000/- respectively. As far as the offence under Section 3 of the SC/ST Act is concerned, a perusal of the FIR (*supra*) and the complaint (Ex. PW/A) does not reveal any allegation qua making caste based remarks. The statements recorded under Section 161 Cr.P.C. as well as eye witness account of Asha do not mention the dishonouring of the applicant and outraging her modesty for the reason of her caste. It was only when the complainant stepped into the witness box that she mentioned the caste based remarks for the first time.

4. Furthermore, it was not the case of the applicant that the respondent-accused threatened her. In the facts of the case in hand, the respondent-accused cannot be said to have made a threat with a culpable intent to cause alarm in the mind of the applicant. Mere abuse, rudeness or insolence may not attract the offence under Section 506 of the IPC, especially in absence of anything available on the record to indicate the same in view of ***Mohammad Wajid and another v. State of U.P. and others Criminal Appeal No. 2340 of 2023***. In view of the unavailability of any evidence to corroborate the allegations, this Court is of the considered view that the offences under Section 3 of the SC/ST Act and Section 506 of the IPC are not made out.

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.

08.04.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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