

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1915 MA-2018 (O&M)
Date of Decision: April 19, 2024

KULWINDER KAUR

...Applicant-Appellant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Joshi, Advocate
For the applicant-appellant

Mr. Rishabh Singla, AAG Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This instant application under Section 378(4) CrPC is preferred against the judgement dated 08.05.2018 passed by learned Additional Sessions Judge, Jalandhar vide which respondents no.2 and 3 were acquitted in the case No. SC/240/2014 arising out of FIR No.19 dated 29.01.2014 registered under Sections 307, 354-A, 452, 324, 323, 506, 120B, 148, 149 of IPC at Police Station-Sadar, Jalandhar.

2. The facts, in brief, are that the applicant made a complaint to the concerned police telephonically on the police helpline number that 1-12 persons armed with *kirpans*, *barshas* and *datars* entered her house after forcibly pushing open the door and manhandled her. The accused also gave a blow with a sharp-edged weapon on the forehead of the sister of the applicant with an intention to kill her and they also dragged her outside and tore her clothes. The said accused also dragged and manhandled the daughter of the applicant. Upon hearing hue and cry of the applicant, people started gathering, due to which, the accused fled away while giving threats and throwing bricks. It was stated that the said incident was a consequence of an ongoing land dispute between the injured and the

accused and that few days earlier, the accused had outraged the modesty of the

said sister of the applicant regarding which a complaint was lodged and pending investigation. After the above incident, all three injured were taken to Civil Hospital in an ambulance and were admitted there for medical treatment. On the basis of the said complaint, a case was registered against 7 accused including respondent no.2 & 3. Out of the said accused, one was discharged vide order dated 20.10.2016 and respondent no.2 & 3 were acquitted of the charges framed against them, while rest of the accused were convicted and sentenced accordingly. Aggrieved by the acquittal of respondent no.2 & 3, the applicant has approached this Court by way of the present petition.

3. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court is of the opinion that the present petition is devoid of any merit. It transpires that respondent no.2 Kashmir Singh was present in the office of his advocate along with co-accused Surinder Singh who was exonerated during the investigation, at the time of the alleged incident. The same has been corroborated by the CCTV footage carrying time and date stamp which has been duly proven on record by DW2. A perusal of the cross-examination of DW2 reveals that time and date appearing in the said CCTV footage cannot be changed. Further, DW1-HC Baldev Singh has categorically stated that record brought before the learned trial Court by him regarding Guard Duty of respondent no.3 Thomas was from 3 pm to 6 pm and that presence of Thomas was marked at 7 pm. However, the incident allegedly occurred at 7:15 pm. If the distance between his place of duty and the place of incident is considered, it could not have been possible for Thomas to be present at the place of alleged incident. It appears that respondents no. 2 & 3 were embroiled in the present case with an ulterior motive and the prosecution was unable to establish their presence at the place of alleged incident and the learned trial Court correctly

gave them the benefit of doubt. Therefore, there is no reason to interfere with the order under challenge in the present petition.

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

19.04.2024
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>