

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-A-1871-MA-2017 (O&M)
Date of decision: 15.04.2024

Premi Devi ...Applicant-Appellant
Versus

Amar Singh Pal and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Savita Bhardwaj, Advocate for
Mr. N.P. Bhardwaj, Advocate
for the applicant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-4821-2019

On 17.01.2019, this Court had granted one last opportunity to the applicant in the interest of justice to address arguments subject to payment of Rs.10,000/- as costs, in the Legal Aid Cell of this Court.

Further, the order has not been complied with till date and there is an application bearing CRM-4821-2019 filed under Section 482 Cr.P.C. for recalling and modification of interim order dated 17.01.2019 to the extent of removing the cost part as the applicant has no financial means to pay the costs.

Keeping in view the facts and circumstances of the case, this Court has no option but to hear and decide the present case on merits.

In view of the above, the abovesaid application is dismissed accordingly.

CRM-27505-2017

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 113 days in filing the application under Section 378 (4) of Cr.P.C.

For the reasons mentioned in the above application, the same is allowed and the delay of 113 days in filing the application under Section 378 (4) of Cr.P.C. stands condoned.

CRM-A-1871-MA-2017

1. This instant application under Section 378(4) CrPC is preferred against the judgement of acquittal dated 21.02.2017 passed by learned Judicial Magistrate 1st Class, Derabassi in the complaint case No. COMI/27 of 2015 dated 09.09.2014 filed under Sections 323, 354, 452, 506, 509/34 of IPC, whereby, the respondents were acquitted of the charges framed against them.

2. Allegedly, on 08.12.2013, the respondents forcibly entered the house of the applicant-complainant with intention to hurt her. The respondents while verbally abusing the applicant, pulled her hair and kicked her in the abdomen. The respondents also tore her clothes. When the applicant raised hue and cry about the same, her neighbour Urmila Devi came to the spot and making good of the opportunity, the applicant went to the shop of her husband but was chased by the respondents. Then the respondents trespassed into the said shop and manhandled the applicant as well as her husband but were saved by the workers in the shop. Resultantly, the applicant made a complaint to the concerned police but no action was taken. Aggrieved by the complacency of the police, the applicant filed a private complaint before the learned trial Court which was dismissed being devoid of merit and the respondents were acquitted. Aggrieved, the applicant has approached this Court by way of the present petition.

3. After perusing the record of the instant case, it is manifestly clear that the present case is devoid of any merit. The applicant has failed to adduce any medical evidence in support of her allegations. Further, all the witnesses

examined by the applicant are her family members and no independent witness has been examined despite her alleging that she was dragged from her house and then across the fields. Also, all of the said witnesses including the applicant herself have admitted that the husband of the applicant owed money to the respondents which was the basis of the actual dispute. The same has been mentioned in the police inquiry report along with the fact that the complaint (supra) was filed by the applicant only to arm-twist the respondents into a compromise in the civil suit pending between them. Further, the applicant has miserably failed to make out the ingredients of the offences alleged by her against the respondents.

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

15.04.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No