



pushed her to the ground. Thereafter, he tore the clothes of the applicant and touched her private parts. The applicant raised alarm, which caused the respondent to slap on her left ear and gave her severe beatings. On hearing the hue and cry, her neighbours namely Veerpal Kaur and Amanpreet Kaur amongst others gathered at the spot and apprehended the respondent but he was allowed to go on the request of his parents. Subsequently, the applicant was taken to Guru Nanak Hospital, Sri Muktsar Sahib, where she was informed that her eardrum was ruptured.

3. Having heard learned counsel for the applicant and after perusing the record with his able assistance, it is evident that none of the neighbours, who allegedly gathered at the spot of the occurrence, were examined by the applicant. The applicant had also stated that the entire incident was witnessed by her daughter-in-law, namely, Amanpreet Kaur, who resided with her. However, during her cross-examination, Amanpreet Kaur admitted that she had been residing separately with her husband for the last six-seven years.

4. Further, the applicant had alleged that her modesty was outraged at the hands of the respondent, however, admittedly, she did not hand over her torn clothes to the police. Moreover, the medical evidence cited by the applicant and proved by Dr. Bandana Bansal, who appeared as CW-2, pertains to 09.09.2015, while the alleged incident occurred on 30.08.2015, which further weakens the case of the prosecution. Lastly, the applications moved by the applicant to the DIG (Mark X) and SHO, PS Sadar, Sri Muktsar Sahib (Mark A) have not been proved as mandated by the Indian Evidence Act, 1872, as the originals were never showcased. As such, these applications cannot be considered to be aiding the prosecution case in any manner.

5. Moreover, 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. In view of the above discussion, 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 Court below which warrants any interference. As such, there is no merit in the present application. Accordingly, leave to appeal is denied and the present application stands dismissed.

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

July 18, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |