

204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-A-1765-MA-2015 (O&M)  
Date of decision: 18.04.2024

Rajni (now deceased) through her LRs

...Applicants

Vs.

Krishan Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kotla, Advocate  
for the applicants.

\*\*\*\*\*

HARPREET SINGH BRAR, J. (ORAL)

1. The present application is preferred under Section 378(4) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') against the judgment of acquittal dated 13.08.2015 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Panipat, in a criminal complaint case bearing No. RBT-25-2013, filed under Sections 323, 354, 452 and 506 of the Indian Penal Code, 1860 (for short 'IPC').
2. Briefly, the facts are that the accused-respondent lived in the same locality as the applicants and was allegedly involved in the trade of illicit sale of liquor. In this regard, mother of the complainant moved a complaint before the police and due to this, the respondent nourished a grudge against the

complainant and her family members. On 03.10.2011 at about 07:30 p.m., when mother and brother of the complainant had gone to the market, the respondent entered the house of the complainant and tried to rape her. The complainant resisted the advances made by the respondent. Subsequently, the respondent physically assaulted the complainant and threw her on the ground. In the meantime, mother and brother of the complainant reached the house and managed to save the complainant from the clutches of the respondent. The accused, while retreating, threatened the complainant that he will kill her and her family members, if she tries to file a complaint against him. Hence the complaint before the learned Magistrate.

3. Having heard learned counsel for the applicants and after perusing the record of the case with his able assistance, it transpires that the house, in which the accused allegedly tried to rape the complainant, was bought by mother of the complainant from her maternal grandmother and the respondent-accused is the real brother of her mother. The complainant, in her cross-examination, admitted that there was a dispute regarding ownership of the house with the respondent and about 6-7 cases were pending in District Court, Panipat regarding the same and the complainant and the respondent were involved in several litigations. Till the time of the filing of the complaint, the ownership of the house was not decided by the Court. Hence, it cannot be ruled out that the complainant possessed a motive to file a false complaint against the respondent.

4. Furthermore, as per the complaint, the respondent by allegedly

selling illicit liquor completely ruined the atmosphere of the locality and disturbed the peace of all the inhabitants. However, the complainant in her deposition could not satisfy learned trial Court whether this in fact was the case. The complainant could not name a single person of the locality, who was allegedly facing a difficulty due to the acts of the respondent. Moreover, no independent witness was examined to support the complainant's claim. Also, as per version of the complainant, she raised hue and cry, when the respondent tried to rape her, yet strangely, none of the neighbours or other passersby came to her rescue or even heard her in the first place. The complainant, in her cross-examination, further stated that nobody saw the respondent either entering or leaving her house that day. Lastly, there is a glaring contradiction in the testimonies of the complainant and her mother. As per the complainant, the respondent was carrying no weapons at the time of the alleged occurrence, whereas her mother, in her cross-examination, stated that the respondent was carrying a '*lath*' in his hand. Such contradiction renders the prosecution case suspicious.

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 innocence of the accused, the view, which favours the accused, should prevail over the other pointing towards his guilt. Furthermore, learned 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 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* passed in *CRM-A No.3 of 2022* decided on 06.07.2023, 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 applicants has failed to point out any perversity or illegality in findings recorded by learned trial Court, which warrants interference by this Court. As such, there is no merit in the present application and hence, leave to appeal is denied.

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

[ HARPREET SINGH BRAR ]  
JUDGE

18.04.2024  
vishnu

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