



1

CRA-AS-92-2019

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

CRA-AS-92-2019

Date of Decision: 29.05.2024

ANITA

...Applicant-Appellant

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.K. Bhar, Advocate
Mr. Johan Kumar, Advocate
for the appellant

Mr. Vikas Bhardwaj, AAG, Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. This instant appeal has been preferred against the judgement dated 10.12.2018 passed by learned Additional Sessions Judge, Faridabad vide which respondent no.2-accused was acquitted in Session case No. 59 of 2018 arising out of FIR No.111 of 08.07.2017 registered under Sections 323, 354A, 354B of IPC & Section 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SC/ST Act) at Police Station-Women Cell, Sector-16A, Faridabad.

2. The facts, in brief, are that the appellant filed a complaint before the concerned police, wherein, it was alleged that on 11.06.2017, respondent no.2-accused hit the scooter of her brother which was parked outside, with his car. When the appellant tried to stop the accused, he passed casteist slurs against her and also made lewd remarks and signals. On hearing the ruckus, the brothers of the appellant namely Prabhu Dayal and Dharam Pal came out but the accused also started beating them and tore the suit of the appellant, touched her breasts and said "Saale Chamaro". The accused also threatened to teach them a lesson



and told them that they would have to live in in the village in the manner he likes. On the basis of the said complaint, the FIR (supra) was registered and the accused was arrested accordingly. After investigating the matter, the concerned police submitted the final report under Section 173 Cr.P.C. before the learned trial Court and in consequence, the accused was charge-sheeted under Sections 323, 354A, 354B of IPC & Section 3(1)(s) of SC/ST Act vide order dated 18.12.2017, to which he pleaded not guilty and claimed trial. After appreciation of the evidence on record, the learned trial Court acquitted the accused of the charges framed against him. Aggrieved, the appellant has approached this Court by way of the present appeal.

3. I have heard the learned counsel for the parties and carefully perused the record with their able assistance. It has come to the fore that the alleged incident occurred on 11.06.2017 but the FIR (supra) was registered on 08.07.2017, i.e., after a delay of 27 days. Further, neither the torn clothes of the appellant nor the vehicles, i.e., scooter and car were taken into possession by the police and no such evidence regarding the same was produced by the appellant when she was examined as PW3. Moreover, there is a material contradiction in the version of the complainant as in her complaint she stated that the casteist slur used by the accused was "*Saali Chamaro*" but in her deposition, she has stated that the slur used was "*Kori-Chamaro*". It transpires that when the alleged incident happened, the police reached at the spot and proceedings were initiated against both sides under Sections 107/151 Cr.P.C but copy of the same was not filed by the Investigating Officer before the learned trial Court. Further, the testimony of PW7, who is the sister of the appellant, suffers from material contradictions and is unpalatable given the fantastical claims made by her to the effect that she being a handicapped girl was able to hold off the appellant. All the aforesaid facts, when considered conjointly, lead this Court to affirm the



observations made by the learned trial Court while passing the impugned judgement of acquittal.

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 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 appeal and hence, the same is dismissed.

29.05.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No