

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1079-2109(O&M)
Date of Decision: 27.02.2024

STATE OF HARYANA

...Applicant-Appellant

Versus

SONU

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, AAG, Haryana
for the petitioner-state

HARPREET SINGH BRAR, J. (ORAL)

CRM-19009-2019

This is an application seeking condonation of delay of 56 days in
filing the accompanying application under Section 378(3) of Cr.P.C.

For the reasons mentioned in the application seeking condonation
of delay, the same is allowed and the delay of 56 days in filing the aforesaid
application is condoned.

CRM-A-1079-2109

1. This instant application under Section 378(3) CrPC is preferred
against the judgement of acquittal dated 01.12.2018 passed by learned
Sessions Judge, Rewari in the case No.SC/108/2018 arising out of FIR No.25
dated 09.02.2018 registered under Sections 379-A, 177 of IPC at Police
Station-GRP, Rewari.

2. The facts, in brief, are that allegedly on 09.02.2018, a police
party was present at platform no.6-7 of railway station, Rewari and

apprehended the respondent who was seen running with a mobile phone in his right hand, on suspicion of him having committed a crime. Soon after, the complainant namely Tejpal reached there and recorded his statement before the police, wherein, he alleged that the respondent escaped after snatching his mobile phone while he was sitting at the platform, waiting for his train. The complainant tried to follow the said accused while raising an alarm but, in the meanwhile, he had already been apprehended by the said police party. The complainant alleged in his statement that mobile phone in the hand of the respondent belonged to him and even produced the purchase bill of the same before the police party. Thereupon, an FIR under 379-A was registered and the accused was formally arrested. On asking, the respondent disclosed his name as Rakesh Kumar. Thereafter, investigation commenced, during which it came to the fore that the said accused had falsely disclosed his name as Rakesh Kumar, in fact, his name was Sonu. After completion of necessary investigation, the report under Section 173 Cr.P.C was presented in the concerned Court for trial of the respondent-accused. Thereupon, learned Judicial Magistrate Ist Class, Rewari vide order dated 07.05.2018 committed the present case to the Court of Sessions for trial of the respondent-accused. Thereafter, the learned trial Court charged the accused for commission of offence punishable under Section 379-A of IPC vide order dated 09.02.2018. However, the learned trial Court concluded the trial by acquitting the respondent-accused of the charge levelled against him subject to him furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount.

3. Having heard the learned state counsel appearing on behalf of the applicant-appellant State and after perusing the record with his able

assistance, it transpires that the complainant Tejpal when examined as a witness, did not implicate the respondent for the alleged offence and rather, stated that he was unable to see the snatcher or the person from whom his mobile phone was recovered. Further, the fact that no independent witness was joined by the concerned police despite the place of occurrence being a crowded public place leads to an adverse inference against the case of the petitioner. Even the perusal of the statements given by the Investigation Officer and the Constable during their examination as PW-1 and PW-6 respectively, shows that several persons of the public were present at the place of occurrence but no plausible explanation was provided by them for their failure to join the same at the time of the investigation. The aforesaid facts, clubbed together, are sufficient for this Court to hold that the impugned judgement of acquittal deserves to be upheld.

4. Pertinently, 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

27.02.2024
Ajay Goswami

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