

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR-2393-2010
Date of decision: 29.05.2024

Sukhwinder Kaur...Petitioner

versus

State of Punjab and another... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harkirat Singh Sandhu, Advocate for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.
None for respondent No.2.

HARPREET SINGH BRAR, J.(Oral)

1. The present revision petition has been preferred against judgment dated 04.05.2010 passed by learned Additional Sessions Judge, Patiala whereby judgment dated 22.07.2009 passed by the learned Sub Divisional Judicial Magistrate, Nabha has been set aside and respondent No.2 has been acquitted from the charges framed against him in FIR No. 80 dated 07.08.2008 registered under Sections 341,354, 323, 506, 34 IPC at Police Station Bhadson.
2. Briefly, the facts are that on 07.08.2008 at about 5 PM, the petitioner-complainant and her husband were passing through a passage when they were restrained by respondent No.2-accused and his wife. The accused gave beatings to the petitioner and her husband. Respondent No.2 also pressed the breasts of the petitioner thereby outraging her modesty. Accordingly, the FIR(supra) was registered and the torn shirt of the petitioner was taken into police possession.
3. On assessing all the material available on the record, learned trial

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Court convicted respondent No.2 for offences under Sections 341, 354, 323, 506 IPC vide judgment and order of sentence dated 22.07.2009. Aggrieved by the same, respondent No.2 preferred an appeal before the lower Appellate Court which was allowed vide impugned judgment dated 22.07.2009. Dissatisfied by the same, the petitioner-complainant has preferred the present revision petition.

4. Having heard the learned counsel for the petitioner and after perusing the record with his able assistance, it transpires that there is a contradiction in the statements rendered by the petitioner. The initial *ruqa* does not mention that respondent No.2 was armed with a stick or that any beatings were given to the petitioner with the said stick. However, while appearing as PW2, the petitioner stated that respondent No.2 gave stick blows to her breasts and abdomen. The medical evidence merely mentions pain and does not indicate any injury on the person of the petitioner. Moreover, the petitioner alleged that they were travelling in a tempo when the alleged incident occurred, however a perusal of the testimony rendered by the investigating officer as PW3 indicates that no tempo or three-wheeler was found at the spot of occurrence, which further weakens the case of the prosecution.

5. Further, as far as allegations qua Section 354 IPC are concerned, in spite of a specific suggestion being made to that effect, the PW1-husband of the petitioner, who happens to be an eye witness, has failed mention anything in his deposition qua respondent No.2 inappropriately touching the breasts of the petitioner. Furthermore, PW2- petitioner and PW1- her husband have admitted that respondent No.2-accused is their neighbour and that the ownership of passage where the incident occurred, while disputed, belongs to

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him. Since the motive behind the alleged incident is clear, it is equally possible that the petitioner-complainant is attempting to falsely implicate respondent No.2.

6. 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. (*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 *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.

7. In view of the discussion above, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned Court below, which warrants any interference. Accordingly, the present revision petition is dismissed and the impugned judgment dated 04.05.2010 passed by the learned Additional Sessions Judge, Patiala is upheld.

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

May 29, 2024
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(HARPREET SINGH BRAR)
JUDGE

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