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

CRR-113-2018 (O&M)

Date of Decision: 25.07.2024

Rekha Devi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tanvir Singh Grewal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Mr. Tanvir Singh Grewal has submitted his Power of Attorney for the petitioner and the same is taken on record.
2. This instant revision petition is preferred against the judgment of acquittal dated 14.11.2017 passed by learned Additional Sessions Judge, Narnaul, in Criminal Appeal No.5 of 2015, whereby the judgment of conviction dated 03.03.2015 and order of sentence dated 04.03.2015 passed by learned Judicial Magistrate 1st Class, Narnaul, in FIR No.97 dated 11.07.2012 under 452 & 354 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Ateli, have been set aside.

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3. The facts, in brief, are that on 11.07.2012, the petitioner submitted an application before the concerned police, wherein it was alleged that when her husband had gone away and she was sleeping at her house, respondent No.2-accused illegally entered her house during the night and held her in his arms. When the petitioner raised hue and cry about the same, her daughter and her mother-in-law woke up, due to which the accused ran away. The petitioner immediately told about the alleged incident to her neighbour, who also saw the accused from behind. On the basis of the aforesaid application, FIR (*supra*) came to be registered. Consequently, the trial ensued before learned Judicial Magistrate 1st Class, Narnaul and ultimately, respondent No.2-accused was convicted for the commission of offences punishable under Sections 354 & 452 of IPC and was sentenced to undergo simple imprisonment for 01 year. Thereafter, the accused preferred an appeal before learned Additional Sessions Judge, Narnaul and the same was allowed, thereby leading to his acquittal. Aggrieved by the acquittal of the accused, the petitioner-complainant has approached this Court by way of the present petition.

4. Learned counsel for the petitioner vociferously contends that learned lower appellate Court erred in reversing the conviction of the accused despite the presence of irrefutable evidence against him. He further submits that since the ocular evidence and the documentary evidence were in

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consonance with the version of the complainant, the accused should not have been given the benefit of doubt.

5. I have heard learned counsel for the petitioner and carefully perused the record with his able assistance. The version of the petitioner is rendered highly improbable after taking into consideration the statement of prosecution witnesses. Not only the petitioner but her children and her mother-in-law were sleeping in the same room, where the bedding of her mother-in-law was right next to the door leaving only tiny space for ingress or egress. It further transpires that the outer boundary wall of the house of the petitioner is about 10-15 feet in height. Further, the complainant was examined as PW-1 and in her cross-examination, she stated that there was no previous enmity between her family and the accused, but her neighbour, who was examined as DW-2, deposed in his statement that an altercation took place between the complainant and the father of the accused during the election for the post of *Sarpanch*. All the aforesaid facts, when clubbed together, lead this Court to opine that the guilt of respondent No.2-accused has not been established beyond the shadow of reasonable doubt.

6. Furthermore, it is trite 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 Courts below have the additional

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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, 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 facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by learned Additional Sessions Judge, Narnaul, in Criminal Appeal No.5 of 2015, which warrants interference by this Court. As such, there is no merit in the present revision petition and the same is hereby dismissed.

[HARPREET SINGH BRAR]
JUDGE

25.07.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No