

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210.

CRR No.3216 of 2018 (O&M)

Reserved on:08.04.2024

Pronounced on:10.04.2024

Shashi Prabha

... Petitioner

Versus

Sita Ram and others

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Guraman Singh, Advocate for
Mr. Pawan Kumar Mutneja, Advocate
for the petitioner.

Mr. Amit Arora, Advocate
for respondents No.1 and 2.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. The present criminal revision petition has been preferred against the judgment dated 18.07.2018 passed by the learned Additional Sessions Judge, Bhiwani whereby the appeal preferred against the judgment dated 07.11.2015 passed by the learned Judicial Magistrate 1st Class, Bhiwani acquitting respondents No.1 and 2 in FIR No.4 dated 04.01.2010 registered under Sections 452, 354, 294, 506 IPC read with Section 34 IPC at Police Station City, Bhiwani has been dismissed.

2. In brief, the facts are that the FIR (supra) was registered on the complaint made by the petitioner-complainant to the Inspector General of Police, Hisar Range wherein it was alleged that on 27.10.2009, respondent No.1 namely Sita Ram, Principal, Government Senior Secondary School, Bhiwani asked the petitioner to come in his office and interacted with her in an obscene manner. After 2-3 days, respondent No.1 reached at her house at

around 9 PM along with respondent No.2, who was working as Chowkidar in the said school. Respondent No.2 remained standing outside and respondent No.1 went inside the house of the petitioner. When she asked respondent No.1 about the reason of coming at odd hours in night, he asked her to sit alongside him and when she sat with him, he caught her both hands and laid her on the bed. When she raised alarm, her mother, who was sleeping in other room reached there. On seeing her mother, respondent No.1 fled from there and while leaving, he threatened that if she would disclose about the incident to any one, he would kill her. At that time, one Krishan Lal came to her house for some work and when he was parking his scooter outside her house, he saw respondents No.1 was going out of her house.

3. After completion of investigation, final report under Section 173 Cr.P.C. was filed against accused-respondents No.1 and 2 for commission of offence under Sections 452, 354, 294 and 506 IPC read with Section 34 IPC. After supplying copies of challan to the accused-respondents No.1 and 2, charges were framed against them for commission of offence punishable under Sections 452, 354, 506 IPC read with Section 34 IPC to which they pleaded not guilty and claimed trial. In order to prove its case, prosecution had examined six witnesses.

4. After recording evidence of the prosecution, statements of accused-respondents No.1 and 2 were recorded and all incriminating evidence were put to them to which they pleaded false implication and claimed innocence. In their defence, they examined three witnesses.

5. After appreciating the evidence led by both the parties, the learned trial Court acquitted respondents No.1 and 2 from the charges framed against them vide judgment dated 07.11.2015 by extending benefit out doubt to them

and the appeal preferred against the same, also stands dismissed vide judgment dated 18.07.2018 passed by the learned Additional Sessions Judge, Bhiwani. Aggrieved by the said judgment, the petitioner is before this Court in instant criminal revision petition.

6. Learned counsel appearing for the petitioner submits that both the Courts below have gravely erred in acquitting respondents No.1 and 2 from the charges framed against them, as the petitioner has specifically mentioned in the statement recorded under Section 161 Cr.P.C. that on 27.10.2009, respondent No.1 had entered into her house and in the statement recorded before the Court also, the date was mentioned as 27.10.2009 and therefore, there was no discrepancy with regard to the date of alleged occurrence. It is further contended that the version of the petitioner was duly corroborated by the eye witnesses PW-6 mother of the petitioner and PW-4 Krishan Kumar, who specifically deposed that on 27.10.2009 at about 9 PM in the night, he had gone to the house of the petitioner to talk to her about the marriage of her younger sister and when he was parking his scooter, he saw a man coming out of the house of the petitioner and another man was standing in the street. When he entered into the house of the petitioner, he saw that she was crying and upon asking about the whereabouts of the person, who was going out of the house, she started crying loudly. It was also argued that after the alleged incident, petitioner talked to her female colleagues, who advised her to keep mum as it was a case of sexual abuse by a superior officer, who was in a dominating position. Therefore, delay in lodging the FIR cannot be said to be fatal to the prosecution case.

7. Per contra, learned counsel appearing for respondents No.1 and 2 supported the judgments passed by the Courts below and contended that there is no infirmity in the same which warrants interference by this Court.

8. Having heard learned counsel for the parties and after perusing the record of the case, this Court finds no merit in the arguments raised by the counsel appearing for the petitioner. Before giving a complaint to the Inspector General of Police, Hisar range on 23.12.2009, petitioner made a complaint to the Superintendent of Police on 16.12.2009 wherein there was not even a whisper to the alleged incident. DW-1 Ramesh Chander Bura, Principal Government Girl Senior Secondary School, Bhiwani and DW-2 Sumitra Yadav, Lecturer History, Government Girl Senior Secondary School proved on record that there were various complaints filed against the petitioner by students and parents and respondent No.1 had marked an enquiry to District Education Officer. In her cross-examination, petitioner submitted that there was strained relation between the petitioner and respondent No.1, as he asked the petitioner to perform election duty on 13.10.2009, despite the fact that there were 90 other officials, who could be asked to do the same. There are material contradictions in the statement made by the petitioner. She stated that on 27.10.2009 at about 7.15 PM, respondent No.1 gave her a phone call, however, there is no mention about the said conversation of the petitioner with respondent No.1 on phone call in any of the statements or complaint made by her. Furthermore, when there was strained relation between the petitioner and respondent No.1, why she allowed him to enter into her bedroom and sat alongside him on his asking. Furthermore, when respondent No.2 was standing out in the street, how petitioner came to know that it was respondent No.2, who accompanied respondent No.1. There are material contradictions in the

statements made by the petitioner, her mother and Krishan Kumar. PW-4, Krishan Kumar in his statement submitted that when he went to the house of petitioner, she was crying and when asked about the person, who went out of the house, she started crying loudly. However, the petitioner and her mother in their statements submitted that when Krishan Kumar entered into the house and asked about the whereabouts of the person, who was going out of the house, mother of the petitioner told him that the said person was Principal of the school namely Sita Ram. Even the female colleagues to whom the petitioner disclosed the alleged incident were not examined by the prosecution for the reasons best known to it. Even the reason given for lodging the FIR after nearly two months of the alleged incident is not plausible. DW-3 Om Singh, retired DSP, who conducted the investigation in the matter and recorded statements of both the parties had found the accused-respondents No.1 and 2 innocent and directed the SHO City, Bhiwani to prepare a cancellation report.

9. 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 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* passed in CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched and fortified in favour of the accused after earning acquittal from the trial Court.

10. In view of the facts and circumstances of the case, this Court finds that the defence has been successful in making serious dent in the prosecution case and that the prosecution has miserably failed to establish its version beyond reasonable doubt. As such, there is no merit in the present criminal revision petition and consequently, the same stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

April 10, 2024
Pankaj*

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