



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-AD-297-2023

DATE OF DECISION: SEPTEMBER 10, 2024

AXXXXX

...APPELLANT

VERSUS

LAKHVIR SINGH AND ANOTHER

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Imaan Singh Khara, Advocate for the appellant.

DEEPAK MANCHANDA, J.

1. The present appeal is directed against the judgement dated 31.3.2023, passed by the Special Court, Bathinda, whereby accused-respondent No.1 has been acquitted of the charges framed under Section 376, 420, 201 IPC.

2. As per the case of the prosecution, the case was registered on the statement of the prosecutrix as per which she was sexually exploited for a long time by respondent No.1, his friend Pritpal Singh and cousin Gurdeep Singh. It has been alleged that respondent No.1 developed physical relations with the prosecutrix on 22.4.2011 and also performed sham marriage with her at a Gurudwara at Zirakpur. In the guise of said marriage, respondent No.1 used to sexually exploit her and she became pregnant several times. However, respondent No.1 persuaded her to abort. It has been further alleged that the prosecutrix kept on asking respondent No.1 to honour the marriage but respondent No.1 used to ignore the same. In April, 2015 the prosecutrix even gave some amount to respondent No.1 to purchase a car in her name but he got the same purchased in his name and on being



confronted, he beat her up and also hit her with a bottle on her head. A complaint in this regard was lodged by her at the Helpline Number 181 as well as with the SSP Bathinda, but respondent No.1 persuaded her to withdraw these complaints. It has been further alleged that one Navneet Kaur telephonically called her and informed that she was living with respondent No.1 at Chandigarh and she should stop pursuing respondent No.1. The present FIR was registered after a thorough inquiry by the Women Cell and after been approved by the SSP, Bathinda as also the prosecutrix had got recorded her statement under the Section 164 Cr.P.C. before a Judicial Magistrate.

3. After respondent No.1 had been charged under Section 376, 420, 201 IPC, he was put to trial.

4. During the trial the prosecution examined PW 1 Gursewak Singh, Head Granthi in Gurudwara Sahib, Shri Charan Kamal, Zirakpur, District Mohali, PW-2, Amarjit Singh, father of the prosecutrix, PW 3 Sukhjeet Kaur, mother of the prosecutrix, PW-4 Surjeet Singh (ASI), PW5 Vinod Kumar (stamp vendor), PW 6 Gurdial Singh (ASI) and PW 7 Iqbal Singh (ASI). After the closure of the prosecution evidence, statement of the accused under Section 313 Cr.P.C. was recorded on 14/03/2023 who denied all the allegations levelled against him and pleaded false implication. The entire incriminating material was put to the accused, which he also denied. In his defence, he examined 4 witnesses, i.e. DW1 Karam Singh (Chief Manager of Gurdwara Akal Garh Sahib Patiala road, Zirakpur, District Mohali), DW2 Lovepreet Sharma, DW3 Jarnail Singh (MC of the village) and DW4 Bikramjeet Singh (MHC Police Post, Court Complex, Bathinda).

The trial court acquitted the respondent No.1 as prosecution failed to prove



the charges framed against him.

5. Learned counsel for the appellant (the father of the prosecutrix) has vehemently argued that appellant being the natural Guardian of the prosecutrix is well versed with the facts of the present case and is fully entitled to file the present appeal. He submitted that the trial Court wrongly observed that since the prosecutrix died in a road accident on 01/01/2017 and could not depose before the Court, therefore, her previous statements recorded under Section 161 and 164 Cr.P.C. could not be relied upon. Learned counsel for the appellant has further argued that the learned trial court did not appreciate the entire evidence in the right perspective and wrongly brushed it aside whereas the appellant had succeeded to prove their case against respondent No.1 beyond reasonable doubt.

6. We have heard the learned counsel for the appellant as well and have gone through the record of the case.

7. The sole question that requires consideration by this Court is whether the impugned judgement of acquittal requires interference. Undisputedly, the complainant–prosecutrix died during the pendency of the case and, therefore, she could not be examined in respondent No.1's trial. PW-2 and PW-3, the father and mother of the prosecutrix respectively, have stated in one voice that the prosecutrix herself disclosed to them a few days prior to her death that she was having an affair with respondent No.1 and performed marriage with him in April, 2011 at Gurudwara Sahib at Zirakpur. DW-1 Karam Singh who was the Chief Manager, Gurudwara Akal Garh Sahib, Patiala Road, Zirakpur also proved the factum of their marriage by producing the Marriage Register (Ex.D1/A) and Marriage Certificate (Ex.D2). DW-2 Lovepreet Sharma deposed that the marriage between the



prosecutrix and respondent No.1 was solemnized on 22.4.2011 in his presence out of their free will. DW-3 Jarnail Singh also deposed that he was the MC of the village and both the prosecutrix and respondent No.1 were married to each other and that they also cohabited as husband and wife for a long time. Further, no evidence was gathered by the Investigating Officer as regards the allegation of abortion(s). It has further been held by the trial Court that the prosecutrix was a Professor. Meaning thereby that she was well educated and was fully aware of her decisions and it has further been rightly observed that the prosecutrix, who died in a road accident on 01/01/2017, could not depose in the Court and that her previous statements recorded under Section 161 and 164 Cr.P.C could not be relied upon, as the same may be made only for the purpose of contradiction.

8. We find that the findings recorded by the learned trial Court do not suffer from any illegality or perversity. In a criminal matter whenever a doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of such doubt. In the instant case, as noticed above, the complainant–prosecutrix died during the pendency of the case and her testimony could not be recorded in the Court. In these circumstances, after examining the depositions of the prosecution and defence witnesses, the trial court held that the prosecution had failed to prove the charge with regard to the offences levelled against respondent No. 1.

9. In an appeal filed against acquittal the appellate Court has to examine as to whether the findings of the Court is perverse and *prima facie* illegal. Once the appellate Court comes to the finding that the grounds on which the judgment is based are not perverse, the scope of the appeal filed against acquittal is limited considering the fact that legal presumption about



the innocence of the accused is further strengthened by the finding of the trial Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Mrinal Das v. State of Tripura, (2011) 9 SCC 479***, wherein it has been observed as follows:

“13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final Court of fact, is fully competent to re-appreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate Court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent Court. If two reasonable views are possible on the basis of the evidence on record, the appellate Court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate Court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate Court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate Court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons"



for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference....."

10. Similarly, in the case of *Ghurey Lal v. State of Uttar Pradesh, (2008) 10 SCC 450*, the Hon'ble Supreme Court reiterated the same view and observed as follows:

"75. The trial court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate Court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable."

11. Thus, the judgment of acquittal is to be interfered with only for compelling and substantial reasons. In case the impugned judgment is clearly unreasonable, it would be a compelling reason for interference but where there is no perversity in the finding of the impugned judgment of acquittal, the appellate Court must not take a different view only because another view is possible. This is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in the absence of strong and/or compelling grounds.

12. In view of the above, we do not find any illegality or perversity in the findings recorded by the trial Court. Accordingly, the present appeal is dismissed.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

September 10, 2024
Gulati/vanita

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No