

CRA-AD-48-2021

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2024:PHHC:146696-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-AD-48-2021

Date of decision: 11.11.2024

Pinderjit Kaur

..... Appellant

V/s

State of Punjab and anr.

...Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

**Present: Mr. Vipin Mahajan, Advocate,
for the appellant.**

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of acquittal dated 22.10.2020 passed by the Additional Sessions Judge, Gurdaspur.

2. The FIR in the present case came to be registered on 04.07.2019. The judgment of acquittal was passed on 22.10.2020. This appeal dated 06.11.2020 has come up for final hearing now i.e. after a period of 05 years having elapsed from the date of the registration of the FIR.

3. The brief facts of the prosecution case are that on 04.07.2019

L/SI Kirandeep Kaur was present in the police station, where the

complainant/prosecutrix came up to her and got recorded her statement to the effect that she was a house hold lady. She had two children i.e. a daughter and a son. Her daughter was aged about six years while her son was aged about four years. On 30.06.2019 at about 12:30 PM, she was going towards Jagowal Bet bus stand for returning the ready made clothes of her children. She was going on foot. When she reached the outskirts of the village, then Manjit Singh son of Pritam Singh resident of Dlave came from the rear side on his motorcycle and offered her a lift assuring to drop her at her desired destination. As he was acquainted with her being a neighbour, she sat on his motorcycle. However, Manjit Singh did not drop her at the bus stand Jagowal Bet but he drove his motorcycle at a very high speed towards bus stand Purana Shalla and also cautioned her to remain quiet or else he would liquidate her. He also told her that she should accompany him or else he would kill her children. As she was frightened, she sat on his motorcycle and went to Gurdaspur alongwith him. Thereafter, he took her to Amritsar by bus from where he forcibly took her to a hotel. After taking her to the hotel room, Manjit Singh administered some intoxicant to her as a result of which she became semiconscious and Manjit Singh violated her person against her consent. On the next day i.e. on 01.07.2019, she regained some consciousness and she requested Manjit Singh to leave her, but he again administered some intoxicant to her and developed physical relations, with her against her consent. She regained her consciousness on 02.07.2019 and that time Manjit Singh was not present in the room. She opened the door of her room and climbed down the stairs and went outside the hotel. After

asking a passerby she went to the bus stand, Amritsar from where she went to her parents house at Village Khanpur, P.S. Thakurdawara District Kangra, Himachal Pradesh. She narrated the entire incident to her parents. As she was ashamed, she did not go to her in laws house. She finally prayed that appropriate action be taken against the said persons. On the basis of her statement an FIR under Section 376/506 IPC was registered. The medical examination of the prosecutrix was got conducted. The statement of the prosecutrix under Section 164 Cr.PC was recorded before the Illaqa Magistrate. Accused Manjit Singh surrendered before the court of the Illaqa Magistrate on 14.08.2019 and after taking his production warrants on 20.08.2019, he was arrested in the present case. His potency test was got conducted from Civil Hospital, Gurdaspur on 21.08.2019. Statements of witnesses were recorded. Offences under Section 498/366/368 IPC were added and after completion of investigation, the challan against the accused was presented in the Court of the Illaqa Magistrate.

4. Upon presentation of Challan before the Illaqa Magistrate, copies of documents appended therewith and relied upon by the prosecution were supplied to the accused. The case was committed by the court of the Judicial Magistrate 1st Class, Gurdaspur vide order dated 10.09.2019 for trial before the Court of Sessions as the offences were exclusively triable by the said court.

5. A prima facie case punishable under Sections 366/368/376/498/506 IPC against the accused was made out and the accused was charged accordingly. He pleaded not guilty and claimed Trial.

6. In order to prove its case, the prosecution examined PW1 prosecutrix, PW2 Jagjit Singh, PW3 Dr. Kanwarpal Singh, PW4 Kuldeep Kaur, PW5 Dr. Jyoti Mahajan, PW6 MHC Ravinder Pal Singh, PW7 ASI Jagjit Singh, PW8 SI Kirandeep Kaur and PW9 PHC Manjit Singh. Thereafter, the Additional Public Prosecutor closed the prosecution evidence.

7. The accused was examined under Sections 313 Cr.PC so as to apprise him of all the incriminating circumstances appearing against him. He reiterated his innocence and claimed Trial.

8. In defence evidence, the counsel for the accused tendered a certified copy of a complaint titled as Harbhajan Kaur Vs. Didar Singh etc. under section 354/354/B/323/341/342/506/166/166A/34 IPC bearing CIS No. COMI-148-2019 as Ex. D1, photocopy of MLR of Harbhajan Kaur as Mark B, certified copy of complaint titled as Jaswinder Singh Vs. Jagjit Singh under section 326/323/354/354-8/506/295-A/148/149 IPC as Ex. D2, photocopy of MLR of Jaswinder Singh Mark A, photocopy of MLR of Rattan Kaur as Mark C and thereafter, the counsel for the accused closed the defence evidence vide her separate statement.

9. The evidence of some relevant prosecution witnesses is as under:-

(i) PW-1/Prosecutrix: Her testimony is as per the FIR. In addition, she referred to her medico legal examination and the recording of her statement under Section 164 Cr.P.C. She admitted that there were multiple persons standing at the

bus stop. The area had 100-150 shops and a police station. She also admitted that there were many persons in the bus boarded by them. However, she did not make any complaint to any one on account of fear of the accused who threatened her to kill her and her children. She did not know the name of the Hotel where the occurrence took place. She did not disclose anything to the Hotel staff. She admitted that her clothes were not torn and she had not suffered any injury in the occurrence.

(ii) PW-2/Jajit Singh-husband of the prosecutrix. He supported the prosecution version. However, he admitted that he did not make any application about the missing of his wife on 30.06.2019 or between 01.07.2019 and 03.07.2019 to any authority/police. He admitted that he did not make any phone calls to his wife during the said period.

(iii) PW-3/Dr. Kanwarpal Singh, Medical Officer, conducted the medico legal examination of Manjit Singh and stated that there was nothing to suggest that he could not perform sexual intercourse. He admitted that he never conducted the DNA test of the accused to match the DNA of the prosecutrix.

(iv) PW5/Dr. Jyoti Mahajan, stepped into the witness box and deposed that on 04.07.2019, she was posted at Civil Hospital, Gurdaspur and she had conducted the medico legal examination of prosecutrix aged about 25 years as told by the patient herself who was brought by the Sub Inspector Kirandeep Kaur and LC Rajwinder Kaur of P.S. Kahnuwan. She stated that according to her statement, her LMP was 22.06.2019. She further stated that on general examination the patient was moderately built and moderately nourished. Her general condition, gait and behaviour was normal. According to her statement, she had changed her clothes and washed them and did not hand over the clothes to the police. She further

stated that on local examination her external genitalia was normal and the hymen was torn and well healed. She further stated that four vaginal swabs were taken. Swabs no. 1 and 2 were sent to the Chemical Examiner, Kharar and rest were sent to SHO of PS. Kahnuwan for DNA analysis if required later on. She further stated that her urine test for a pregnancy test was conducted which was found to be negative and she proved the copy of the MLR of the prosecutrix as PW5/A on which she identified her signatures. She also proved the report of the chemical examiner as Ex. PW5/B and her opinion regarding the same as Ex. PW5/C, in which she opined that there was nothing to suggest that sexual intercourse with prosecutrix had not taken place. During her cross-examination, she admitted that the victim was fully conscious at the time of examination and there were no marks of assault or any injury on any part of the body including her private parts nor were there any such marks on the body of the victim. She stated that the victim never disclosed any history of administering any intoxicant to her and as such she never got conducted her blood test. She had also not prepared the DNA profile of the victim. She further stated that the victim did not disclose any history to her. She stated that live spermatozoa could be detected uptill 72 hours. She further stated that it had been mentioned in the chemical report that spermatozoa were found on the private parts of the victim. However, it had not been mentioned, whether the same was live or otherwise.

(v) PW8/SI Kirandeep Kaur, stepped into the witness box and deposed as per the version of prosecution. She was the investigating officer of the present case and stated that on 04.07.2019 she was deputed on temporary duty at P.S. Kahnuwan and on that day, she was present at the police station, where complainant/prosecutrix along with her husband

and aunt Kuldeep Kaur came present and the complainant suffered a statement. which she proved as Ex. PA, which was signed by the complainant at point A in token of its correctness. She proved her endorsement on the same as Ex. PW-8/A and FIR as Ex. PW-8/B. She further proved on record the site plan of the place of occurrence as Ex. PW-8/C, the application moved by her for conducting the medical examination of prosecutrix as Ex. PW-8/D and the application moved by her before the Illaqa Magistrate on 05.07.2019 for recording the statement of prosecutrix under Section 164 Cr.PC as Ex. PW-8/E. During her cross- examination, she admitted that from 01.07.2019 to 04.07.2019 none of the family member of the prosecutrix lodged any complaint that the prosecutrix was missing. She stated that she could not tell the distance between village Dhawe and police station Kahnuwan. She stated that prosecutrix never told her regarding the colour of the motorcycle of the accused on which she was allegedly taken by him nor she took the motorcycle in police possession during investigation. She further stated that prosecutrix never told her the place where the accused left his motorcycle She admitted that Purana Shalla town had a police Station and lot of people remain present at village Jagowal Bet and Purana Shalla town. She admitted that a permanent barricading of police was present at bus stand, Purana Shalla and if any person went to Gurdaspur on motorcycle, he must have crossed that permanent police barricade. She admitted that no person from village Dhawe to Jagowal or Jagowal to Purana Shalla had stated that they had seen accused and prosecutrix together on a motorcycle on 30.06.2019. She stated that prosecutrix never disclosed the name of any shop at the bus stand Jagowal Bet, where she was going to return the ready made garments on 30.06.2019 nor did she disclose in her statement that she was allegedly taken by the

accused under the threat of any weapon. She also admitted that prosecutrix did not disclose the place of occurrence at Amritsar nor did she take her to Amritsar to the said place. She further stated that prosecutrix did not show any injury mark on her body to her and admitted that clothes of the prosecutrix were not in a torn condition and also admitted that the prosecutrix never handed over the clothes to her nor did she give any bus ticket to her regarding her travel from Amritsar to her parents house. She admitted that no blood test was conducted for detection of any intoxicant in the body of the prosecutrix. She admitted that on 04.07.2019 prosecutrix was fully conscious and did not show any sign of depression. She further admitted that on 04.07.2019 prosecutrix was accompanied by her husband and her aunt Kuldeep Kaur.

10. Based on the evidence led, the respondent No.2-accused came to be acquitted vide judgment dated 22.10.2020 passed by the Additional Sessions Judge, Gurdaspur.

11. The aforementioned judgment is under challenge before this Court.

12. The learned counsel for the appellant contends that the judgment of acquittal has been recorded on the basis of conjectures and surmises. The medical evidence was totally in consonance with the ocular account. In fact, the occurrence had taken place on account of the prosecutrix being intoxicated. Minor discrepancies in the statements of the witnesses had been given undue weightage. Merely because the prosecutrix had not suffered any injury or that her clothes not torn did not detract from

the veracity of her deposition. He, therefore, contends that the impugned

judgment dated 22.10.2020 was liable to be set aside and the accused-respondent No.2 ought to be convicted for having committed the offence in question.

13. We have heard the learned counsel for the appellant and perused the record.

14. In the present case, the entire prosecution case revolves around the testimony of complainant/prosecutrix, on whose statement Ex. PA, the criminal law was set into motion. PW2 Jagjit Singh husband of the prosecutrix and PW4 Kuldip Kaur paternal aunt of the prosecutrix have also tried to corroborate her version on the afore-mentioned aspect.

15. Adverting to the main issue as to whether the accused had kidnapped and committed rape upon the prosecutrix/complainant by illegally confining her in a hotel room at Amritsar, there is no doubt that even the solitary testimony of a prosecutrix in a case involving rape and sexual assault is sufficient to establish the guilt of an accused because a prosecutrix in such cases is placed at par with an injured of a hurt case. However, as a rule of caution, it is the duty of the court to evaluate whether the evidence of the prosecutrix and other material witnesses is found to be unassailable even after their cross examination and is free from material inconsistencies.

16. Evaluating the evidence of the star witness i.e. prosecutrix who is the best person to narrate about and prove the alleged crime of rape committed upon her by the accused, it cannot be said that she has been able to inspire any confidence. There are material inconsistencies in the version of the prosecutrix, her husband Jagjit Singh and her paternal aunt Kuldeep

Kaur which cannot be overlooked. Admittedly, accused Manjit Singh was well known to the prosecutrix being her neighbour. As per her version, Manjit Singh had threatened to liquidate her as well as her children in case she refused to accede to his illegal demand of submitting before him and accompanying him to some place as per his wishes. As per her version, though, the accused promised to drop her at some ready made garments shop at Purana Shalla, he drove his motorcycle at a very high speed and took her to the bus stand, from where she was taken to Amritsar by bus after which the accused took her to a hotel room. They reached the hotel room by foot. It is admitted by the prosecutrix herself that all the said places from Purana Shalla to the hotel room at Amritsar were thickly populated and many people were passing by. However, she she did not raise any alarm. Though, she stated that the accused had threatened to liquidate her and her children, which forced her to suffer in silence, but it is hard to believe that she opted to succumb to the act of the accused knowing well that he had an evil intention of violating her person. As per her version, she was confined in the hotel room for about two days i.e. from 30.06.2019 to 02.07.2019. However, she herself admitted that she never bothered to inform the staff of the said hotel who was available all around the clock in the hotel premises. Even prior to reaching the hotel room, she did not try to attract the attention of the people who weré present at Purana Shalla bus stand or at Amritsar bus stand or while on the way from Amritsar bus stand to the hotel, which they covered by foot. Her conduct makes the prosecution case doubtful. She being a prudent lady was expected to have raised a hue and cry attracting the

attention of the people/passersby or the staff of the hotel where she was confined for almost two days. Thus, it is highly unacceptable that the accused had subjected the prosecutrix to rape in the hotel room after forcibly taking her from Gurdaspur to Amritsar passing through thickly populated areas. It could have been possible only if the prosecutrix was a consenting party.

17. Further, as is evident from the testimony of prosecutrix, there was no attempt on her part to run away from the hotel room from 30.06.2019 to 02.07.2019 or to report the matter to the local police at Amritsar. Merely saying that she was threatened with liquidation by the accused in case she disclosed regarding his conduct does not inspire confidence when it is not the case of the prosecution that the accused was armed with any dangerous weapon at any time or that the same was flaunted by him before the prosecutrix. Further, the shopkeeper from whom the prosecutrix had purchased the clothes of her children which she intended to return on 30.06.2019 for which she was offered a lift by accused has not been examined. No bills of the said clothes allegedly intended to be returned by the prosecutrix saw the light of the day in the present case. It is admitted by PW Jagjit Singh husband of prosecutrix that the shop of one of his close relatives was situated at Purana Shalla. It is highly improbable that when the prosecutrix could decipher that she was under the threat of being kidnapped or that some untoward incident would take place with her at the hands of accused, she still did not give any sign to the afore-mentioned relative or any other shopkeeper or any other person who was present at the place of

occurrence. She also did not raise any alarm while she was allegedly forced to board the bus from Gurdaspur to Amritsar. She also was unable to tell the description, name, location etc. of the hotel room in which she was allegedly confined by the accused nor did she take the investigating officer to the said hotel.

18. While deposing in the court, she stated that the accused had been administering some intoxicant to her and while she was in the semiconscious state due to the said intoxication and despite her resistance, her person was violated by the accused. There is no medical evidence in this regard to corroborate her testimony on this aspect. PW5 Dr. Jyoti Mahajan categorically stated during her cross-examination that the victim/prosecutrix never disclosed any history of being given any intoxicant and as such she never got her blood test conducted in this regard. She also stated that the victim/prosecutrix did not disclose any history of the alleged occurrence to her. A similar admission was made by the investigating officer PW-8/SI Kirandeep Kaur, who stated that she had not been told by the prosecutrix regarding her alleged intoxication by the accused.

19. As per the prosecution case, the prosecutrix was missing from her house since 30.06.2019. Admittedly, as per the version of PW 2 Jagjit Singh her husband, no complaint was made by him to the local Panchayat or to the concerned police authority regarding the fact that his wife was missing. As per the prosecutrix, she went to the house of her parents in Himachal Pradesh after she managed to escape from the hotel room on 02.07.2019, when the accused was not present in the hotel room. However,

the matter was reported to the police on 04.07.2019. This delay of four days has remained unexplained. No doubt, delay in reporting the matter in rape cases is not fatal, but the delay should be properly explained. The husband of prosecutrix did not take any action immediately after he came to know that his wife was missing nor were the parents of the prosecutrix bothered to report the matter to the police immediately after coming to know of the alleged occurrence. This also creates a doubt in the prosecution story. It is also pertinent to mention here that the prosecutrix has been unable to explain why she went to her parents house instead of going to her husband's house at Gurdaspur which was closely situated to Amritsar. She also did not prove any tickets of the bus allegedly boarded by her for going to Himachal Pradesh from Amritsar. This anomaly raises a cloud of suspicion on the veracity of the prosecution version and thus, there is no any plausible explanation for the delay in lodging the report with police.

In *Tulshidas Kanolkar Vs. State of Goa reported in 2003(4), R.C.R. (Criminal) 964: 2003 (8) SCC 590*, wherein rape was committed on a girl whose mental ability was undeveloped, this is what the Hon'ble Apex Court had to say about the fact of delay.

“5. We shall first deal with the question of delay. The unusual circumstances satisfactorily explained the delay in lodging of the first information report. In any event, delay per se is not a mitigating circumstance for the accused when accusations of rape are involved. Delay in lodging first information report cannot be used as a ritualistic formula for discarding prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation

has been offered for the delay. Once it is offered, the Court is to only see whether it is satisfactory or not. In a case if the prosecution fails to satisfactory or not. In a case if the prosecution fails to satisfactory explain the delay and there is possibility of embellishment or exaggeration in the prosecution version on account of such delay, it is a relevant factor. On the other hand satisfactory explanation of the delay is weightly enough to reject the plea of false implication or vulnerability of prosecution case. As the factual scenario shows, the victim was totally unaware of the catastrophe which had befallen to her. That being so, the mere delay in lodging of first information report does not in any way render prosecution version brittle."

Applying the aforesaid observations to the case in hand this court is of the opinion that the prosecution has been unable to justify the delay in lodging the present FIR.

20. It is pertinent to mention here that as per the testimony of PW5 Dr. Jyoti Mahajan who had medico legally examined the prosecutrix, there were no marks of assault or any injury on any party of the body of the prosecutrix including her private parts. This admission of the concerned doctor further negates the version of the prosecutrix that she tried to resist the accused, while he was violating her person against her wishes taking benefit of her semiconscious state.

21. Though, as per the report of the chemical examiner and exhibit PW-5/B, the opinion of the Dr. Jyoti Mahajan, Ex. PW-5/C spermatozoa was present in the vaginal swabs, however, mere presence of spermatozoa does not ipso facto establish the guilt of the accused. The medical evidence has to

be duly corroborated and substantiated by the ocular version of the prosecutrix and the other material witnesses. There is no DNA profiling of the accused which allegedly matches with that of the prosecutrix and in the absence of the same, it cannot be concluded that the spermatozoa were that of the accused, more so when the prosecutrix is a married lady who was admittedly in the company of her husband from 02.07.2019 till 04.07.2019, when the matter was reported to the police.

22. No doubt, it is a well settled principle of law that conviction can be founded on the sole testimony of the prosecutrix, unless there are compelling reasons for seeking corroboration. It is also equally settled that corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. However, it has to be borne in mind that a case of sexual assault has to be proved beyond reasonable doubt as any other case and there is no presumption that the prosecutrix would always tell the entire story truthfully.

23. In ***Tameezuddin @ Tammu versus State (NCT of Delhi), 2009(15) SCC,566***, it was held as under:

"7. It is true that in case of rape the evidence of the prosecutrix must be given predominant consideration, but to hold that this evidence has to be accepted even if the story is improbable and belies logic, would be doing violence to the very principles which govern the appreciation of evidence in criminal matters. We are of the opinion that story is indeed improbable. We note from the evidence that PW.1 had narrated the sordid story to PW.2 on his return from the market and he had very gracefully

told the appellant that everything was forgiven and forgotten but had nevertheless lured him to the police station. If such statement had indeed been made by the PW.2 there would have been no occasion to even go to the police station. Assuming, however, that the appellant was naive and unaware that he was being lead deceitfully to the police station, once having reached there he could not have failed to realise his predicament as the trappings of a police station are familiar and distinctive. Even otherwise, the evidence shows that the appellant had been running a kirana shop in this area, and would, thus, have been aware of the location of the Police Station. In this view of the matter, some supporting evidence was essential for the prosecution's case. As already mentioned above the medical evidence does not support the commission of rape. Moreover, the two or three persons who were present in the factory premises when the rape had been committed' were not examined in Court as witnesses though their statements had been recorded during the course of the investigation. In this background, merely because the 'vaginal swabs and the salwar had semen stains thereon would, at best, be evidence of "the commission of 'sexual intercourse but not of rape. Significantly also, the semen found was not to the appellant as his blood samples had not been taken. In this background the evidence of the defence witness, Mohd. Zaki becomes very relevant. This witness testified that there was no occasion for PW.2 to have come to the factory as no payment was due to him on any account. The Courts below were to our mind remiss in holding that as no written accounts had been maintained by Mohd. Zaki and no receipt relating to any earlier payment to PW.2 had been produced by him, his testimony was not acceptable; the more so, as the factory was a small one and Mohd. Zaki was a petty factory owner."

24. In ***Dinesh Jaiswal Vs. State of M.P. 2010 (3) SCC 232***, the Hon'ble Supreme Court held as under:-

“5. Mr. C.D. Singh has however placed reliance on Moti Lal's case (supra) to contend that the evidence of the prosecutrix was liable to be believed save in exceptional circumstances. There can be no quarrel with this proposition (and it has been so emphasised by this Court time and again) but to hold that a prosecutrix must be believed irrespective of the improbabilities in her story, is an argument that can never be accepted. The test always is as to whether the given story prima facie inspires confidence.”

25. Further, in ***Rai Sandeep @ Deepa Vs. State of NCT of Delhi, 2012(4) RCR (Crl.) 11***, the Hon'ble Apex Court commented about the quality of the sole testimony of the prosecutrix, which would be made basis to convict the accused and it was held as under:-

"15. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused.

There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross examination of any length and howsoever strenuous it may be and under no circumstances should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have correlation with each and everyone of other supporting such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as sterling witness whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged”.

26. As to how an appeal against a judgment of acquittal is to be dealt with, the Hon’ble Supreme Court in ***Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427*** has held as under:-

of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”

27. In view of the aforementioned discussion and keeping in view the law laid down in ***Kallu @ Masih & Ors. Case (supra)***, we find no reason to interfere with the well reasoned judgment dated 22.10.2020 passed by the Additional Sessions Judge, Gurdaspur, whereby the respondent No.2-Manjit Singh has been acquitted. Therefore, the present appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

November 11, 2024
sukhpreet

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