

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2432-2019 (O&M)
Date of Decision: 07.05.2024

SHUBH LATA
...Applicant-Appellant

Versus

DHARAMPAL
...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vipin Mahajan, Advocate
For the applicant-appellant

HARPREET SINGH BRAR, J. (ORAL)

CRM-33882-2019

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 614 days in filing the application under Section 378(4) of Cr.P.C.

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 614 days in filing the aforesaid application is condoned.

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1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgement dated 10.11.2017 passed by learned Judicial Magistrate Ist Class, Gurdaspur in complaint case No. COMI-1481/2014 dated 06.08.2013 filed under Sections 376, 511, 323, 504 & 506 of IPC, vide which the respondent was acquitted of the charges framed against him.
2. The facts, in brief, are that it was alleged by the applicant-complainant that the respondent along with his wife used to dump their garbage and dirty water into the plot of the complainant. Whenever the applicant

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paid no heed to the request of the applicant. Then on 14.07.2013, when wife of the respondent was doing the aforesaid act again, the applicant requested her to stop but the respondent came there and started abusing and beating the applicant and also broke her gold chain. The respondent also dragged the applicant to his room upon provocation of his wife and tried to rape her by removing her salwar but she saved herself somehow. The respondent also threatened the applicant with dire consequences. Aggrieved, the applicant approached the concerned police but due to the inaction on their part, she approached the learned trial Court through the present private complaint. Initially, both respondent as well as his wife were made accused in the said complaint but the learned trial Court dismissed the complaint qua the wife of the respondent vide order dated 13.03.2015. However, the respondent was charged for commission of offence punishable under Section 354 of IPC to which he pleaded not guilty and claimed trial and ultimately, acquitted of the same. Aggrieved by his acquittal, the applicant has approached this Court by way of the present petition.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. It transpires that there was an admitted previous enmity between the parties. The applicant failed miserably before the learned trial Court to substantiate her claim in her examination-in-chief as she only levelled bald and vague allegations. Further, no independent witness was examined by the applicant in order to corroborate her allegations. A perusal of the material available on record in its entirety leads this Court to observe that allegations levelled by the applicant against the respondent appear to be false and concocted due to an existing enmity between them. Therefore, in the absence of any specific allegations and due to lack of corroboration, the learned

trial Court was in the right to acquit the respondent of the charges framed him.

4. Furthermore, 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. Furthermore, the trial Court has the additional 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 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 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.
5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)

JUDGE

07.05.2024

Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No