

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-A-2519-2019 (O&M)
Date of Decision: April 15, 2024

HASNA

...Applicant/Appellant

Versus

RAM KUMAR AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagjit Singh, Advocate for
Mr. Gourav Jain, Advocate
for the applicant/appellant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-34286-2019

This is an application seeking condonation of delay of 10 days in filing the accompanying application/appeal under Section 378(3) Cr.P.C.

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 10 days in filing the aforesaid application is condoned.

CRM-A-2519-2019

1. This instant application under Section 378(3) Cr.P.C. is preferred against the judgement of acquittal dated 17.07.2019 passed by learned Judicial Magistrate Ist Class, Tohana in case arising out of FIR No.327 dated 24.07.2016 registered under Sections 323, 341, 354 of IPC at Police Station- City Tohana, Fatehabad.
2. The facts, in brief, are that on 24.07.2016, respondent no.1- accused, who is the neighbour of the applicant-complainant, blocked her way and tore her clothes and caused injuries to her. Respondent no.1 also tried to

outrage her modesty. The said matter was reported to the concerned police and the FIR (supra) came to be registered. Consequently, a criminal trial ensued and respondent no.1 was ultimately acquitted of the charges framed against him in the present case. Aggrieved, the applicant has approached this Court by way of the present petition.

3. Having heard the learned counsel for the applicant and after perusing the record with his able assistance, it transpires that there is an unexplained delay in reporting the alleged incident to the concerned Police. Further, there are material contradictions in the testimony of the applicant. Even the family members of the applicant who were present in the house at the time the alleged incident occurred were not examined by the prosecution despite them being available. The person who accompanied the applicant to the hospital was also not examined as a witness by the prosecution. All the aforesaid facts lead this Court to draw adverse inference against the case of the applicant.

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.

15.04.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>