



CRR-2415-2022

1

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2415-2022

Date of Decision: 08.05.2024

GURPREET SINGH

...Petitioner

Versus

GURDARSHAN SINGH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nandan Jindal, Advocate with
Mr. Tushar Sabherwal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against the impugned judgement dated 27.09.2022 passed by learned Additional Sessions Judge, Sangrur, dismissing the cross appeal filed by the petitioner challenging the judgement of conviction and order of sentence dated 14.10.2019 passed by learned Sub-Divisional Judicial Magistrate, Dhuri, whereby respondent no.1 was convicted under Sections 323, 325 of IPC but was acquitted under Sections 354, 354-B of IPC in case arising out of FIR No.83 dated 06.06.2013 registered under Sections 323, 325 of IPC at Police Station- City Dhuri.

2. Succinctly, the facts are that on 03.06.2013, one medical *ruqa* was received from the Medical Officer, Civil Hospital, Dhuri regarding admission of the present petitioner- Gurpreet Singh and his wife- Harwinder Kaur. After following the due procedure, the concerned police officials recorded the statement of Gurpreet Singh on 03.06.2013, wherein, it was alleged that his brother Gurdarshan Singh- respondent no.1 was present at their joint land and

**CRR-2415-2022****2**

when he was walking towards his brother to enquire about the demarcation line of their land, his brother Gurdarshan Singh struck him with the tractor bearing no.PB-59-1187. Due to the said act of his brother, the petitioner received injuries on his face, upper lip, teeth, legs and thighs and his lower back. When the wife of the petitioner came to rescue him, respondent no.1 got off from the tractor and ran towards her while holding an oil gauge. Respondent no.1 hit the wife of the petitioner with the said oil gauge and also tore her clothes and bit her on her right shoulder. When the petitioner and his wife raised hue and cry, people started gathering at the spot and somehow, rescued them. Then his brother Gurmeet Singh came and got him admitted in the hospital.

3. On the basis of the abovesaid statement, the FIR (supra) was registered against respondent no.1-accused. After a thorough investigation, final report under Section 173 Cr.P.C. was submitted by the concerned police. The learned trial Court, on finding a prima facie case against the accused, initially framed charges for commission of offences punishable under Sections 323, 325 of IPC but later re-framed the charge under Sections 325, 323, 354 and 354-B of IPC, to which he pleaded not guilty and claimed trial. Ultimately, the learned trial Court, convicted the accused for commission of offences punishable under Sections 323, 325 of IPC and sentenced him for a period of 3 years under Section 325 IPC and 1 year under Section 323 of IPC but acquitted him of the charge framed against him for commission of offences punishable under Sections 354, 354-B of IPC. Thereafter, respondent no.1 preferred an appeal against his judgement of conviction and order of sentence whereas the petitioner, aggrieved by the acquittal of the petitioner of charges under Section

**CRR-2415-2022****3**

354, 354-B of IPC, preferred a cross appeal against the same. The learned lower Appellate Court dismissed the cross appeal filed by the present petitioner-complainant but partly allowed the appeal filed by respondent no.1-accused, whereby, his conviction was upheld but quantum of sentence awarded to him was modified and he was granted the benefit of probation. Aggrieved, the petitioner has approached this Court by way of the present petition.

4. Learned counsel for the petitioner vociferously contends that the allegations pertaining to Sections 354/354-B have been duly proved by the ocular evidence coupled with the medical evidence on record as the MLR exhibited as PW2/D clearly shows that there are three injuries on the body of his wife Harwinder Kaur and she was subjected to assault and criminal force was used against her. He further submits that the learned lower Appellate Court failed to appreciate the fact that the petitioner and his wife received 8 injuries in total at the hands of respondent no.1 including fracture of his tooth and therefore, learned lower Appellate Court wrongly granted the benefit of probation to respondent no.1.

5. I have heard learned counsel for the petitioner and carefully perused the paper-book with his able assistance. It transpires that the prosecution has been unable to establish that respondent no.1 had torn the clothes of Harwinder Kaur-PW4 or given her injuries with intention to outrage her modesty. Although, it was alleged by the petitioner in his statement that respondent no.1 tore the clothes of his wife and bit her on her right shoulder but the said clothes were never handed over to the investigating officer SI Jagjit Singh-PW2 or to the doctor concerned. Even the alleged tooth



CRR-2415-2022

4

bite injury on the shoulder of Harwinder Kaur was not proved as per her MLR. Therefore, there is nothing on record to establish the guilt of the accused under Sections 354 and 354-B since an essential ingredient, i.e., intent to outrage the modesty of a woman, is missing. The aforesaid facts, clubbed together, are sufficient for this Court to opine that the learned Courts below have rightly acquitted respondent no.1 of the charge framed against him for commission of offences punishable under Sections 354, 354-B of IPC.

6. Pertinently, a two Judge bench of the Hon'ble Supreme Court in **Premiya @ Prem Prakash v. State of Rajasthan (2008) 10 SCC 81**, speaking through Justice Dr. Arijit Pasayat, made the following observations:

"12. In order to constitute the offence under Section 354 Indian Penal Code mere knowledge that the modesty of a woman is likely to be outraged is sufficient without any deliberate intention of having such outrage alone for its object. There is no abstract conception of modesty that can apply to all cases. (See State of Punjab v. Major Singh, (AIR 1967 Supreme Court 63). A careful approach has to be adopted by the court while dealing with a case alleging outrage of modesty. The essential ingredients of the offence under Section 354 Indian Penal Code are as under:

- (i) that the person assaulted must be a woman;*
- (ii) that the accused must have used criminal force on her; and*
- (iii) that the criminal force must have been used on the woman intending thereby to outrage her modesty"*

7. Moreover, the petitioner has already been awarded compensation of Rs.30,000/- for the injuries received by him at the hands of respondent no.1 in consequence of the order of sentence dated 14.10.2019. Further, respondent no.1 is a first-time offender and has no criminal antecedents and has been facing protracted trial for 11 years now. Therefore, the learned Additional

**CRR-2415-2022****5**

Sessions Judge, Sangrur has justly modified the aforesaid order of sentence and granted the benefit of probation to respondent no.1. Further, Section 3 and 4 of the Probation of Offenders Act empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. Similarly, Sections 360 and 361 of the Cr.P.C also empower the courts to release the offenders on probation of good conduct in the cases and circumstances mentioned therein. A two Judge Bench of the Hon'ble Supreme Court in **Som Dutt and others Vs. State of Himachal Pradesh (2022) 6 SCC 722** speaking through Justice Bela M. Trivedi, has held as under:-

“6....having regard to the fact there are no criminal antecedents against the appellants, the court is inclined to give them the benefit of releasing them on probation of good conduct. In that view of the matter, while maintaining the conviction and sentence imposed on the appellants, it is directed that the appellants shall be released on probation of good conduct.....”

8. A two Judge Bench of the Hon'ble Supreme Court in **Lakhvir Singh Vs. State of Punjab (2021) 2 SCC 763** speaking through Justice Sanjay Kishan Kaul, has held as under:-

“6. We may notice that the Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be subserved.”

9. Furthermore, the power of the Appellate Court to unsettle the 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.

10. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned Courts below which warrants interference by this Court. As such, the present petition stands dismissed being devoid of merits.

11. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

(HARPREET SINGH BRAR)

JUDGE

08.05.2024

Ajay Goswami

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