



CRM-A-292-2022 (O&M)

-1-

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-A-292-2022 (O&M)

Date of Decision: 05.11.2024

MAHENDRO

...Applicant

V/S

SHAMSHER SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akhil Saini, Advocate for Mr. Kuldeep Atri, Advocate
for the applicant.

HARPREET SINGH BRAR J. (Oral)

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 24.09.2021 passed by learned Additional Sessions Judge, Hisar in complaint under Sections 506/509 of Indian Penal Code and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 at Police Station Uklana District Hisar.

2. Brief facts of the present complaint are that complainant is a widow and belongs to *Chamar* caste. She is looking after her children by doing the labour work in MANERGA. On 10.05.2016, Ex-Panch Ram Mehar Kalu, Panch Krishan, Panch Mohar Singh, Rani, Rohtash alongwith some labourers went in the office of Block Development and Panchayat Officer Uklana for work. After getting information from ABPO, when they reached at gate of Block Development and Panchayat Officer, Uklana, then Sarpanch Shamsher used abusive and filthy language at public place against complainant saying that "*Sali, Dhedhani, Kamini, Chamari, Tere Ko Kaam nahi dunga.*". He also called the complainant "*Randi*" and abused her in the name of mother and sister. He passed unacceptable remarks on her caste

**CRM-A-292-2022 (O&M)****-2-**

and threatened to kill her. Ex.-Panch Ram Mehar, Panch Mohar Singh and Rohtash asked him not to use such language but accused gave threat to Mohar Singh and Ram Mehar also. Accused also threatened to involve her in false charges against her and lodge her in the jail. The complainant alongwith others went to Police Station and moved a complaint but no action was taken. Complainant approached the higher authorities for taking action against the accused, but no action was taken. Hence, the present complaint has been filed.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that after going through the enquiry report, it was concluded that proper inquiry was conducted on the complaint and the allegations made in the said complaint were found to be false and benefit of doubt was given to the accused-respondent. Moreover, learned Court below further observed that PW-1, Smt. Mahendro deposed that they met accused Shamsher near the gate of BDPO Office. PW-3 Mohar Singh deposed that after crossing the main gate, they met accused Shamsher on road, whereas PW-5 Ram Mehar deposed that he saw accused Shemsher in the office of BDPO. As such, there was contradictions between the statements of witnesses regarding the fact that where they met accused Shamsher on 10.05.2016. It was further observed that Mahendro-complainant deposed during cross-examination that they did not move any written application with regard to getting work and they simply talked with BDPO. On the other hand, PW-3, Mohar Singh deposed that on 10.05.2016, they reached in the office of BDPO and moved an application to BDPO and

**CRM-A-292-2022 (O&M)****-3-**

PW-5 Ram Mehar has not stated that any application was moved to BDPO for demanding the work under the MANREGA Scheme. PW-3 Mohar Singh during cross-examination, deposed that they moved application to BDPO regarding the act of accused, but BDPO said that they have to move application to SHO. He also deposed that he wrote the application which was given to BDPO. On the other hand, PW-5 Ram Mehar deposed during cross-examination that he, Mohar Singh and Mahendro did not move application to BDPO regarding the abuses given by accused to complainant-Mahendro and they straightaway went to Police Station. Thus, material contradictions were found in the statements of complainant and other witnesses.

4. 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** passed 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.

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

(HARPREET SINGH BRAR)
JUDGE

05.11.2024
Ajay Goswami

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