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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 11.11.2024

Mandeep Kaur

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vansh Malhotra, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. Present revision petition has been filed against the judgment dated 16.07.2024 passed by the learned Additional Sessions Judge, Kaithal upholding the order dated 29.07.2022 passed by the learned Judicial Magistrate Ist Class, Kaithal, whereby respondent No.2 (herein) was acquitted of the charge under Section 354 of the IPC.

2. For the cause of clarity *may* simplicity, the revisionist-petitioner, who has registered the FIR in question, will be referred to as the 'complainant' while respondent No.2, the accused in the FIR in question, will be referred to as the 'accused' throughout this judgment.

3. In the present revision petition, the pertinent facts for adjudication are that an FIR bearing No.0121 dated 20.12.2016 was lodged against the accused-respondent No.2, resident of Village Jakholi, Police Station Titram, Tehsil and District Kaithal, under Section 354 of the Indian Penal Code (for brevity the 'IPC') at Police Station Titram, District Kaithal. The matter proceeded to trial before the Court of the learned Judicial Magistrate Ist Class, Kaithal which concluded its proceedings and, vide judgment dated 29.07.2022, acquitted the accused (respondent No.2 herein)



of the charge *ibid* framed against him. Dissatisfied with the acquittal, the complainant preferred an appeal against the said judgment. However, the learned Additional Sessions Judge, Kaithal, vide judgment dated 16.07.2024, upheld the trial court's decision, affirming the acquittal of the accused. The appellate Court held that the prosecution has miserably failed to prove the offence against the accused-respondent No.2 beyond reasonable doubt and that there is no illegality, infirmity or perversity in the judgment passed by the learned trial Court who had reached an appropriate conclusion based on the material facts presented during the trial and hence does not require any interference.

4. The petitioner, aggrieved by the consistent findings of both the trial Court and the appellate Court, has now invoked the revisional jurisdiction of this Court, seeking re-examination of the findings as the same are based on alleged mis-appreciation of evidence and procedural irregularities. However, it is well-settled law that the scope of revision is limited and does not entail any re-appreciation of evidence unless there is a manifest illegality or a serious miscarriage of justice.

5. In brief, the case of the prosecution is that, on 12.12.2016, a Zero FIR was registered under Sections 323, 354, and 506 of the IPC at the Women Police Station, Kurukshetra and was forwarded to Kaithal Police. The complainant, a 25-year-old woman from Bhusa Khera in Fatehabad, alleged that since she moved to her maternal uncle's house (respondent No.2 herein) in Jakholi, Kaithal, in the year 2007, at the age of 15, her uncle, Ved Parkash (respondent No.2 herein) had harassed her with character accusations and obscene behavior. Her uncle also instigated her family, including her parents and siblings, who also subjected her to physical and



mental abuse, leading her to consider suicide multiple times. It has been alleged in the FIR by the complainant that she started working at Krishna Ayurvedic Hospital on 05.03.2016; she claimed that her family and uncle Ved Parkash (respondent No.2 herein), continued threatening her life and recordings of these threats were in her possession. On 03.10.2016, she was attacked by her father and uncle Ved Parkash (respondent No.2 herein) near Kurukshetra University, where they publicly threatened to kill her. She sought police help but allegedly no action was taken. Since then, she has been in hiding. Following her complaint, FIR No. 0121 was registered on 20.12.2016. Investigation by ASI Veena and ASI Ajmer Singh found other family members innocent, while Ved Parkash (respondent No.2 herein) surrendered on 10.01.2017. Sections 323 and 506 were later on removed, and a final charge sheet was filed against Ved Parkash (respondent No.2 herein) for offences punishable under Section 354 of the IPC. After completion of the investigation, report under Section 173 of Cr.P.C., 1973 was submitted before the competent Court of jurisdiction.

6. Learned counsel for the petitioner-complainant has iterated that both the Courts below have erred in acquitting the accused-respondent No.2 and that the impugned orders are contrary to the law, facts and evidence on record. According to the learned counsel, both the Courts below have totally ignored and failed to appreciate the documentary evidence on record. It has been further iterated that both the Courts below have totally failed to appreciate the fact that the petitioner-complainant, being the sole witness to prove her case, her evidence should be considered carefully, as there was no occasion for her to depose falsely. According to learned counsel, both the Courts below have also failed to properly consider the compelling evidence



presented by the prosecution, misinterpreted it, and wrongly granted the benefit of the doubt to the accused, which is contrary to the evidence of the prosecution. It has been argued that the appellate Court has merely reiterated the findings of the trial Court and dismissed the appeal on flimsy grounds. The learned counsel further argued that both the Courts below have failed to appreciate the consistence evidence led by the prosecution, and without properly appreciating all the material evidence, have acquitted the accused. Learned counsel has further canvassed that the both the Courts below have wrongly and unlawfully acquitted the accused, despite there being sufficient evidence on record to establish his guilt, and hence, his acquittal is not justified in light of the evidence presented.

7. The principles governing the scope of interference by the High Court in an appeal against the judgment of acquittal have been laid down by the Hon'ble Supreme Court in the judgment passed in the case titled as ***Babu Sahebagouda Rudragoudar and others versus State of Karnataka, 2024 INSC 320 = 2024(2) Law Herald (SC) 928*** held as under:

“39. Thus, it is beyond the pale of doubt that the scope of interference by an Appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-

- (a) That the judgment of acquittal suffers from patent perversity;*
- (b) That the same is based on a misreading/omission to consider material evidence on record;*
- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”*

8. In light of the above principles laid down by the Hon'ble Supreme Court, I have thoughtfully considered the arguments advanced on



behalf of the petitioner, perused the entire case record and judgments passed by the learned trial Court as well as by the learned appellate Court.

9. While going through the impugned judgments passed by both the Courts below, it appears that the prosecution has failed to satisfactorily discharge its burden of proof by presenting credible and reliable evidence or witnesses. It is a well-settled principle of law that the burden rests upon the prosecution to establish the guilt of the accused through cogent and convincing evidence, and any failure to do so entitles the accused to the benefit of doubt.

10. As per the version of the prosecution, the complainant, in the year 2007, was sent to live with her maternal uncle, Ved Parkash (respondent No.2 herein), for her studies. However, she alleges that her uncle, Ved Parkash (respondent No.2 herein) began accusing her of having a bad character and instigated her parents against her, which led them to mistreat her. It has come on record that the complainant had allegedly developed an illicit relationship with her cousin, Jitender, who was married at that time. Her uncle, Ved Parkash (respondent No.2 herein) objected and informed the parents of the complainant, who reprimanded the complainant to which the complainant took as harassment and became upset. The parents of the complainant also expressed their disapproval of the relationship, which only intensified her anger towards the accused (respondent No.2 herein). In response, she made allegations against her uncle, accusing him of harboring ill intentions towards her. Moreover, it was unusual that, despite the accused (respondent No.2 herein) allegedly attempting to outrage the modesty of the complainant, she did not inform her family. It has also come on record that the wife of the Jitender filed a divorce petition on the



grounds of cruelty. The said divorce petition was allowed ex-parte. Thereafter, the complainant eventually moved in with Jitender in a live-in relationship, later marrying him after his divorce, and had a son out of this wedlock. This relationship reportedly had been disapproved by the father of the complainant, who disowned her and even published the same in a newspaper, a move complainant claimed was influenced by Ved Parkash (respondent No.2 herein).

10.1 Furthermore, the testimony of the complainant is the only evidence alleging her uncle's inappropriate behavior towards her during her stay in the year 2007, i.e., nine years before she filed the instant complaint. There is no material coming on record to show why the complainant did file the complaint earlier. In the considered opinion of this Court, the delay in lodging the complaint and the lack of specific incidents undermines the credibility of the complainant.

10.2. Furthermore, the prosecution failed to call the uncle of the complainant namely Randhir Singh, who is purported to have supported the claims of the complainant, as a witness. This omission weakens the case of the prosecution. Moreover, the only other witnesses presented were the official witnesses who conducted the investigation and found no evidence against the parents or siblings of the complainant, which led to their exoneration from the charges under Sections 323 and 506 of the IPC.

10.3. It is pertinent to mention herein that both the Courts below noted that while convictions can be based on a sole testimony of the complainant, the account must be reliable and specific. However, in the instant case, the vague claims of the complainant lacked corroboration, and both the Courts below came to the conclusion that the only possible motive



for her accusations against her uncle, Ved Parkash, was his disapproval of her relationship with her cousin, Jitender, whom the complainant later married and had a son. Thus, her allegations were deemed insufficient/unconvincing to establish any intent by Ved Parkash (respondent No.2) to outrage her modesty under Section 354 IPC, given the manner in which the complainant narrated the incident. There is no just and reasonable explanation forthcoming either from the evidence produced by the complainant, the records of the case or the averments made in the present petition on this aspect. Moreover, when the star witness provides inconsistent or unclear testimony about key details, it raises doubt about her reliability. This inconsistency, especially regarding the time and nature of the alleged assault, undermines the case of the prosecution and potentially weakens the case of the complainant.

11. It is a well established principle in criminal jurisprudence that the burden of proof rests squarely upon the prosecution, which must establish the guilt of the accused beyond reasonable doubt. Any failure to meet this standard, particularly when key evidence is either missing or questionable, entitles the accused to the benefit of doubt. It has been consistently held that suspicion, however grave, cannot substitute for proof, and where there exists any reasonable doubt, the benefit of such doubt must be given to the accused and they must be acquitted in accordance with law. In light of the above discussed discrepancies and inconsistencies, it can safely be inferred that the case put forth by the complainant is false, and there is no evidence of the alleged incident as projected by the complainant. Where the complainant herself has failed to substantiate her case beyond reasonable doubt, as has happened in the case in hand, the defence, if any,



raised/pleaded by the accused recedes into the background and rather becomes immaterial. However, as has been noted by the learned Additional Sessions Judge while passing the judgment of acquittal, in para No.16 of the judgment that the prosecution has relied solely on the testimony of the complainant and there is no corroboration of her statement. There are number of contradictions in the prosecution story, and the totality of circumstances taken together does not inspire confidence, but rather creates serious doubts in the story of the prosecution. Furthermore, the complainant had failed to established how the accused (respondent No.2) acted in an indecent manner with her in order to outrage her modesty. A mere allegation that the accused behaved indecently with malicious intent does not relieve the complainant of her responsibility to clarify the specific actions allegedly committed by accused Ved Parkash (respondent No.2 herein). The eagerness of the complainant to implicate the accused through vague and general accusations further indicates a possible attempt to falsely implicate him, regardless of their actual participation/involvement, in an effort to harass him.

12. In light of the facts and circumstances of the entire case, coupled with the presence of multiple lacunae as also inconsistencies in the case, the learned Additional Sessions Judge, as well as the learned trial Court, rightly arrived at the conclusion that the story put forth by the complainant was false and the allegations raised lacked substance.

13. The facts of the case clearly narrate that the complainant intentionally tried to conceal the real genesis of the case. However, both the Courts below, i.e., the learned trial Court and the learned appellate Court, have meticulously and judiciously examined the matter, appreciating the

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facts and evidence in their proper context. Both the Courts below have rightly discerned the attempt of the complainant to distort the narrative and have delivered their findings based on a through evaluation of the material on record.

14. Perusal of the impugned judgments of acquittal passed by both the Courts below shows that the entire evidence led by the complainant has been gone through in detail and in a painstaking manner and has dealt with each and every aspect of the case in a pragmatic manner. The judgments of acquittal are based on sound reasoning; do not suffer from any illegality or perversity. As such, the judgment of acquittal dated 16.07.2024, passed by the learned Additional Sessions Judge, Kaithal, upholding the order dated 29.07.2022, passed by the learned Judicial Magistrate Ist Class, Kaithal, is upheld. Resultantly, the present revision petition, being bereft of merits, fails and is dismissed.

15. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 11, 2024
Ajay

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