

2024:PHHC:149917-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRA-AD-31-2024(O&M)

Date of Decision:-18.11.2024

P

.....Appellant.

Vs.

State of Union Territory, Chandigarh & Anr

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Ms. Sweta, Advocate for
Mr. Sanjeev Sharma, Advocate for the Appellant.

Mr.Sumit Jain, Addl. PP U.T., Chandigarh.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of acquittal dated 17.08.2023 passed by the Judge, Fast Track Special Court, Chandigarh.

2. As per record, the FIR came to be registered on 19.12.2019. The judgement of acquittal was recorded on 17.08.2023. The appeal was filed in 2024 and has come up for hearing today after more than 05 years of the registration of the FIR.

3. Briefly stated, the present case was registered on the complaint of the prosecutrix with the allegations that she alongwith her daughter was residing in a rental accommodation in Chandigarh. She was a divorcee and

doing a private job in Sector 17, Chandigarh. While she was residing in a rental accommodation in House No.3128, Sector 22-D, Chandigarh, she came in contact with the accused, who was also residing as a tenant in the same house and was working in Allen Institute, Sector 34, Chandigarh. On the request of landlord, she started cooking food for the accused on payment of charges. Thereafter, the accused started taking care of her as well as of her daughter. At one time the accused proposed to her for marriage. On the suggestion of the accused, in 2017, she along with her daughter and accused shifted in some other rental accommodation, wherein they both started residing together in the same house and used to pay rent. The accused assured her that he would convince his parents for their marriage. He promised her that he would never leave her as well as her daughter. Thereafter, he developed sexual relations with her on the pretext of marriage. Whenever, she used to insist upon the accused to solemnize marriage, he used to postpone the matter by giving one excuse or the other. When she insisted upon the accused to solemnize marriage with her, then he started avoiding her and maintaining a distance from her. On one occasion the accused on the pretext of attending a training at Kota, left the house for three to four months. She got suspicious and when she inquired about the whereabouts of the accused from his office she was shocked to know that he was at his office. Thereafter, the accused started abusing and beating her. On one occasion she had a quarrel with him and then he took her to the Rose Garden and assured her that he would convince his parents for their marriage. He asked her to reach home, but he himself never came back home. Thereafter, on 19.09.2019, she dialed 100 number to call the police. She also contacted the accused on his mobile, but it was switched off. After a few days, she received a call from the Woman Police Station and a

compromise was arrived at between her and the accused. Thereafter, also accused did not return back home and started residing in Mohali. Then the accused on the pretext of going to Kota, left her home and went to Bhubaneswar. She gained the knowledge of the same and she also went to Bhubaneswar. However, the accused asked her to return back home. She realized that the accused had sexually exploited her on the false promise of marriage. Finally, she moved the complaint.

4. The investigation commenced. Site plan of the place of occurrence was prepared. During the course of investigation, the accused was arrested. Statement under Section 164 Cr.P.C. of the prosecutrix was recorded. The Prosecutrix and accused were medically examined. Scaled site plan of the place of occurrence was prepared. Statements of witnesses under Section 161 Cr.P.C. were recorded.

5. After completion of necessary formalities, challan against the accused was presented under Sections 376(2)(n) of IPC before the Illaqa Magistrate. On 25.02.2020, the case was committed by the Additional Chief Judicial Magistrate, Chandigarh to the learned Court of Sessions for 09.03.2020. After filing of the charge sheet in the matter, copy thereof along with documents were supplied to the accused as required under Section 207 of Criminal Procedure Code.

6. On 28.07.2021, finding a prima facie case, the accused was charged under Sections 376(2)(n) IPC, to which he pleaded not guilty and claimed trial.

7. In order to substantiate it's case, the prosecution examined the following witnesses :

PW-1	ASI Yash Pal No.3104 (Draftsman)
PW-2	ASI Nafe Singh No.1482
PW-3	Prosecutrix

PW-4	Jatinder Sharma (Landlord)
PW-5	Dr. Satyam Tyagi, EMO, GMSH-16, Chandigarh.
PW-6	Dr. Apoorva, MO, GMSH-16, Chandigarh
PW-7	Inspector Eram Rizvi (Investigating Officer)
PW-8	Lakhmi Chand (Landlord)

The following documents were brought on record during prosecution evidence:-

Ex.P-1	Scaled Plan
Ex.P-2	DDR No.11 dated 21.09.2019
Ex.P-3	Copy of Compromise
Ex.P-4	Complaint
Ex.P-5	OPD Card of Prosecutrix
Ex.P-6	MLR of Prosecutrix
Ex.P-7	Envelop
Ex.P-8	Statement of Prosecutrix under Section 164 Cr.PC
Ex.PW-3/1	Application moved to Public Window regarding audio recording of prosecutrix and accused
Ex.PW-3/3	Pen Drive
Ex.PW-3/4	Transcript of conversation between prosecutrix and accused
Ex.PW-3/5	Application moved in the Court for placing on record the pen drive
Ex.PW-5/1	Police request regarding medical of accused
Ex.PW-5/2	MLR of accused dated 15.02.2020
Ex.PW-7/1	FIR
Ex.PW-7/2	Rough Site Plan
Ex.PW-7/3	Application for recording the statement of prosecutrix under Section 164 Cr.PC
Ex.PW-7/4	Certificate
Ex.PW-7/5	Order of the Court
Ex.PW-7/6	Arrest memo of accused
Ex.PW-7/7	Personal search memo of accused

8. Before proceeding further, it would be apposite to discuss the evidence of some relevant prosecution witnesses :

PW-3 Prosecutrix stated that she was residing in Sector 22, Chandigarh. She got divorced in the year 2016 and since 2017 she started residing with her daughter in a rental accommodation. In July 2017, the accused was also residing as a tenant in the same building, wherein she was residing as a tenant. On asking of the landlord, she started cooking food for

the accused as he was residing alone. She cooked food for the accused for two months. Thereafter, she felt ill and was not able to do her daily work and at that time, the accused helped her in doing her daily work. He started teaching her daughter. The accused started taking care of her. One late evening, while she was lying on the bed, outside her kitchen, at that time the accused shared details of his family and got emotional. He caught hold of her hand and expressed his liking towards her and his intention to marry her. At that time he tried to hug her, but she pushed him away and went inside the room. Next morning, she noticed several missed calls of the accused on her mobile number. He apologized for his act. He told that he had no objection, that she was a divorcee and he wanted to marry her. After a few days the brother of the accused came and stayed with him for 2-3 days and she cooked food for him also. The accused assured her that he was convincing his family for their marriage. He in front of the Mandir of his house took a pledge that he considered her as his wife. She was also willing to marry the accused, but she wanted that physical relations between them should take place after their marriage. On the insistence of the accused, physical relationship took place between them in 2017, between the intervening period of summer and winter. He developed physical relations with her on the pretext of marriage. On asking of the accused, she along with the accused shifted from the rental accommodation and then started residing together as husband and wife w.e.f. 2018-2019. In February 2019, the accused left the house on account of attending training at Kota. He was telephonically in-touch with her for a span of two months while he was at Kota. He did not return back home for about 4-5 months and she started questioning him for not returning back home. He started using abusive language with her. On 17.09.2019, he on a video call assured her that he

would return back home. However, she was suspicious about the act and conduct of accused. Therefore, on 18.09.2019 she went to the office of the accused and came to know that he had returned back to Chandigarh. She was asked to wait in the waiting area and accused met her there and was shocked to see her. She asked him to accompany her to the house but he refused and pushed her towards the ground. He also gave kick blow in her abdomen. Consequently, students and staff of the institute gathered. He took her to the Rose Garden and tried to convince her that he wanted to marry her. She got suspicious and recorded their conversation, but the Investigating Officer refused to take the recording. Thereafter, on the pretext of having water, he fled away. She dialed number 100 for help. She also called the Police Station, Sector 34 stating that the accused had developed physical relations with her on pretext of marriage and now refused to marry her. She also went to Woman Police Station and disclosed everything, but no action was taken. Finally she moved the complaint Ex.P4. She identify her signatures on Ex.P4. She admitted her signatures on OPD Card Ex.P5 and MLR Ex.P6. She admitted the she gave the statement before the Magistrate i.e. Ex.P8. She identified the accused present in the Court. On 05.01.2022 at Public Window, she moved application Ex.PW3/1 for placing on record the audio recording between her and the accused. She identified her signatures on the application Ex.PW3/1. The pen drive containing audio recording was Ex.PW3/3. The transcript of the conversation was Ex.PW3/4 running into eight pages. She moved application Ex.PW3/5 before the Court to place the said pen drive on record. When the FIR was registered, SI Eram Rizwi called the accused at Neelam Chowki, where accused sought two month's time to convince his parents to solemnize the marriage. After leaving the police station, he switched off his mobile and she could not contact him. He

started residing in Mohali. He stayed at her house for 4-5 days and again developed physical relations with her on the pretext of marriage and took two month's time to convince his parents for their marriage. Thereafter, he left for Delhi. She also accompanied him to Delhi and then he boarded a train from Delhi to Kota and she returned back. She was telephonically in-touch with him and she came to know that he was not in Kota, but at Bhubaneswar. She reached Allen Rest House at Bhubaneswar and had a fight with him. He convinced her that he would marry her. Then, she returned back home. He repeatedly assured that he would marry her.

During cross-examination she stated that it was correct that on the asking of landlord, she used to prepare food for the accused and charged Rs.3500/- per month. She stated that she did not remember the exact date when the accused started sharing details of his family. She admitted that the factum that the accused started sharing details of his family with her while she was lying on the bed, was not incorporated in her complaint Ex.P4 and statement under Section 161 Cr.P.C. She did not remember the phone number of the accused from which she received several missed calls on the next day of the first incident when he made sexual advances towards her. She admitted that he after making sexual advances towards her, had apologize her and stated that he had no objection if she was a divorcee, is not incorporated in her statement before the police or Magistrate. She admitted that she had not stated to the police or the Magistrate that the accused in front of the Mandir of her home, had taken a pledge to consider her as his wife. She did not remember the exact dates, when he used to deposit amounts in her bank account. The copy of the bank account statement from 05.01.2018 to 01.10.2019 was Mark DA. She admitted that a compromise took place between her and the accused in the police station. Volunteered accused

sought two month's time to convince his parents for their marriage. The compromise dated 21.09.2019 was Ex.P3 and copy of DDR dated 19.09.2019 was Mark DB. She admitted that she moved the first complaint against the accused in September 2019. She admitted that she got the motorcycle of the accused parked in the house of her friend namely Soni, due to shortage of space at her place.

PW-4 Jatinder Sharma son of Late Shri Sohan Lal Sharma resident of House No. 3128, Sector 22-D, Chandigarh stated that he was the landlord of the above house. In the year 2017, he gave the rooms of his house on rent to the prosecutrix and accused separately on the top floor of his house. Both the persons resided in separate rooms. The accused requested her to provide the food. When he went upstairs to meet the accused, at that time, the prosecutrix was standing outside the room and stated that she would prepare food for him, and she would charge for the same. Later on both the persons left the house. He identified the accused and prosecutrix, in Court.

During cross-examination by learned defence counsel, he stated that he was running a Fast Food Shop in Sector 22-D, Chandigarh under the name and style of Amritsaria Di Hatti. He had given his premises on rent in 2017.

During the stay of the prosecutrix and accused in his house, the prosecutrix never complaint him about the accused.

PW-5 Dr. Satyam Tyagi, posted as EMO, in GMSH-16, Chandigarh appearing on behalf of Dr. Jaskaran Singh brought the summoned record. He stated that as per record of MLR dated 15-02-2020, police request Ex. PW5/1 was forwarded for conducting medical examination of accused. On the said date, the accused was accompanied by police officer SI Eram Rizvi at 04.20. Identification mark of accused was

mentioned in the MLR alongwith generalized examination of the patient done by Dr. Jaskaran Singh. He identified his signatures on the MLR which was exhibited as Ex.PW5/2 as he had worked with him as he had seen him signing and writing. There was nothing to suggest that person examined cannot perform sexual intercourse.

PW-6 Dr. Apoorva, posted as MO, in GMSH-16, Chandigarh appearing on behalf of Dr. Shatabdi Suryawanshi stated that the prosecutrix was examined by Dr. Shatabdi Suryawanshi in the present case who had now left the GMSH-16, Chandigarh and her present address was not available. She further stated that the prosecutrix 36 years female was examined at 01:00 with the alleged history as detailed in portion A of MLR at page 3 mentioned in the MLR. The MLR was Ex.P6 and OPD card was Ex. P5. She has given the opinion that sexual assault cannot be ruled out. The MLR was prepared by Dr. Shabadi Suryawanshi, MO GMSH-16 whose signature she identified at point B on Ex. P5 and P6.

PW-7 Inspector Eram Rizvi, No.695, PCR, Sector 26, Chandigarh stated that on 04.11.2019, complaint Ex.P4 was filed by the prosecutrix at SSP Office, Sector 9, Chandigarh and same was received in Police Station-17, Chandigarh where she was posted as Sub Inspector. After enquiry, FIR Ex.PW7/1 was registered on 19.12.2019 which bore signatures of SI Suresh Kumar, whose signatures she identified. She inspected the spot at the instance of prosecutrix and prepared the rough site plan Ex.PW7/2. The Prosecutrix was got medically examined from GMSH-16. Her OPD card was Ex.P5 and MLR Ex.P6. Samples were not taken as the last sexual assault had occurred in the last week of September 2019. She moved application Ex.PW7/3 for getting recorded the statement u/s 164 Cr.P.C.

Statement of prosecutrix was Ex.P8 she had identified prosecutrix at point C

on the said statement. The Court issued certificate Ex.PW7/4 and order of the court was Ex.PW7/5. She searched for the accused and conducted various raids but he was not traceable. On 14.2.2020, she got the spot inspected from HC Yashpal who prepared scaled site plan Ex.P1. She had also placed on record compromise between prosecutrix and accused to show that they were staying together and the said compromise was Ex.P3 regarding which the DDR was Ex.P2. She had also recorded the statement of the owner of House No.3066, where accused and prosecutrix were residing. On 15.02.2020, accused came to the police station along with order of the Court. He was formally arrested by her vide memo Ex.PW7/6 and his personal search memo Ex.PW7/7. He was got medically examined vide application Ex.PW5/1 and MLR was Ex.PW5/2. During investigation, she recorded statement of witnesses. After completion of investigation challan was prepared by Inspector Jaspal the then SHO whose signatures she identified.

During cross-examination, she stated that she had no knowledge that the prosecutrix was preparing food for the accused and charging Rs.3500/-. It was correct that a compromise was effected between the accused and prosecutrix which is on record. It was correct that the accused left the rented accommodation in February 2019 and the complaint was moved by prosecutrix in September 2019. She had not verified whether accused was working in Allen Institute, Sector 34, Chandigarh. The prosecutrix never sought any permission for recording and preserving call records of accused. The prosecutrix has never handed over any pen drive containing alleged conversation between her and accused. She was not aware that the prosecutrix was having possession of motorcycle bearing registration No.CH-01-BM-4637 belonging to accused.

PW-8 Sh. Lakhmi Chand, S/o Sh. Jyoti Ram, age 64 years,
r/o H. No.396, Sector 17, Panchkula stated that earlier he was owner of House No.3066, Sector 22-D, Chandigarh and he was residing there with his family. He had given the top floor of the above-said house on rent to accused and prosecutrix in the month of February, 2018 at the rate of Rs. 12000/- per month. They were residing as husband and wife with one baby girl. The prosecutrix stayed uptill 2020 with her daughter and accused had left 7-8 months prior to that.

During cross-examination, he stated that accused and prosecutrix taken the top floor on rent. The Rent agreement was executed, but he had not brought the same in the Court. He had sold the house later. The prosecutrix never complained to him regarding the act and conduct of accused. Sometime rent was paid by the prosecutrix and sometime by the accused.

9. The Statement of the accused was recorded under Section 313 Cr.PC wherein, the incriminating evidence appearing against him was put to him. He stated as under :

“ A false case is registered against me and interested witnesses have deposed falsely. In fact I have been a victim of this false FIR at the hands of prosecutrix, my entire career has been jeopardized and I have suffered severe humiliation because of the blackmailing done by prosecutrix regularly on the pretext of asking of money as well as to fulfill her sexual desire. She wanted the money to support herself being a divorcee as well as for supporting her minor daughter. I paid the amount on various occasions approximately Rs. 70000/.”

10. In order to substantiate his case, the accused examined the following witnesses in defence evidence:

DW-1	Jagdeep Singh, SWOA, Central Bank of India Sector 35-D, Chandigarh.
DW-2	ASI Ram Gopal No.1228 Police Post-22, Chandigarh

The following documents were brought on record during defence evidence:-

Ex.DW-1/1	Statement of account of accused from 01.01.2018 to 01.10.2019
Ex.DW-2/1	Copy of complaint moved by accused against prosecutrix vide reference no.ICMS/2023/000939 on 11.01.2023
Mark DA	Copy of statement of account from 05.01.2018 to 01.10.2019
Mark DB	Copy of DDR dated 19.09.2019

11. Based on the evidence led as described above the accused was acquitted by the court of Judge Fast Track Special court, Chandigarh vide judgment dated 17.08.2023.

12. It is the aforementioned judgment which is under challenge in the present appeal.

13. The Counsel for the appellant as well as the State Counsel contend that the Trial Court had recorded the judgment of acquittal on the basis of conjectures and surmises. The evidence of the prosecution witnesses clearly established the guilt of the accused. The medical evidence was in consonance with the deposition of the prosecutrix/victim. Minor discrepancies in the evidence had been given undue weightage. They therefore contend that the judgment was liable to be set aside and the respondent no.2-accused was liable to be convicted for the offences in question.

14. We have heard the counsels and gone through the record.

15. The primary accusation against the accused is regarding commission of rape with the prosecutrix on promise of marriage. As per the prosecution version, the accused earlier made physical relations with the prosecutrix somewhere in 2017 at Chandigarh and thereafter he continued with physical relations on the false promise of marriage.

16. The Prosecutrix PW-3 stated that the accused expressed his intention to marry her. As per her she was of the opinion that physical relations between them should take place after marriage. However, it has not come on record as to why she succumbed to the insistence of the accused to develop sexual relations with him without solemnizing marriage. Admittedly, the accused and the prosecutrix were majors, the prosecutrix being a mother of two children and older in age to the accused. Despite that she made a choice to establish sexual relations with the accused without solemnizing marriage and merely relying on his promise to marry her. It is evident from record that the prosecutrix continued with sexual relations with the accused over years, though she repeatedly stated before the Court that she surrendered herself to the accused on his promise to marry.

17. The Hon'ble Supreme Court in **Deepak Gulati vs State of Haryana 2013 (7) SCC 675**, while delving on "consent" of the prosecutrix has held as under:

"21. There is a clear distinction between rape and consensual sex and in a case like this, the court must very carefully examine whether the accused had actually wanted to marry the victim, or had malafide motive, and had made a false promise to this effect only to satisfy his lust, as the later falls within the ambit of cheating or deception. There is distinction between mere breach of promise and not fulfilling a false promise. Thus, the court must examine whether there was made, at any early stage a false promise of marriage by the accused ; and whether the consent involved was given after wholly understanding the nature and consequences of sexual indulgence. There may be a case where the prosecutrix agrees

to have sexual intercourse on account of her love and passion for the accused, and not solely on account of mis-representation made to her by the accused, or where an accused on account of circumstances which he could not have foreseen, or which were beyond his control, was unable to marry her, despite having every intention to do so. Such cases must be treated differently. An accused can be convicted for rape only if the court reaches a conclusion that the intention of the accused was malafide and that he had clandestine motives.” The aforesaid stand has been reiterated in *Dr. Dhruvaram Muralidhar Sonar vs State of Maharashtra and others* 2019 (1) RCR (Criminal) 674 (SC).

18. In **Parmod Surya Bhan Pawar vs State of Maharashtra, SC 2019 (4) RCR (Criminal) 135**, the Hon'ble Supreme Court held that “where the promise to marry is false and the intention of the maker at the time of making of promise itself was not to abide by but to deceive the woman to convince her to engage in sexual relations, there is “misconception of fact”, that vitiates the women's “consent”. On the other hand, a breach of promise cannot be said to be a false promise. To establish a false promise, the maker of promise should have no intention to uphold his words at the time of giving”.

It was further held ; “to summarize the legal position, that emerges from the above cases, the “consent” of a woman with respect to Section 375 IPC must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the

time it was given. The false promise itself must be of immediate relevance or bear a directness to the woman's decision to engage in the sexual act.”

19. In **Uday Vs State of Karnataka 2003 (4) SCC 46**, the Hon'ble Supreme held as under:

“25. It usually happens in such cases when two young persons are made in love, that they promised to each other several times that come what may, they will get marry. As stated by the prosecutrix the appellant also make such a promise on more than one occasion. In such circumstances, the promise or significance, particularly when they are overcome with a emotion and passion and find themselves in situation and circumstances where they, in a weak movement, succumbed to temptation of having sexual relations. This is appears to have happened in this case as well, and the prosecutrix willingly consented to having sexual intercourse with the appellant with whom she was deeply in love. But not because he promise to marry her but because she also desire it. In these circumstances, it would be very difficult to impute to the appellant knowledge that the prosecutrix had consented in consequence of misconception of fact arising from his response. In any event it was not possible for the appellant to know what was in the mind of prosecutrix when she consented, because there were more reasons than one for her to consent.”

20. In the instant case, from the version of prosecutrix and the accused, it is evident that accused and the prosecutrix were in a relationship with each other. As per the prosecutrix, after the first incident when the accused established sexual relations with her on pretext of marriage in 2017,

she shifted with the accused to another rental accommodation wherein they resided as husband and wife without solemnizing marriage. The version of prosecutrix that she was raped for span of more than two years by the accused on the false pretext of promise to marry, is unbelievable. It is difficult to hold that sexual intercourse in the course of a relationship continued for three years as 'rape' especially in the face of the prosecutrix's own allegation that they lived together as husband and wife. Thus, the prosecutrix entered into a livein relationship knowing fully well about her choices. She cannot claim that she was not aware that a live-in relationship was a relationship of convenience where two parties decide to live together and may leave each other at will. The testimony of the prosecutrix reveals that they both started having strained relations for the reasons known to them and thereafter the present case was registered.

21. The prosecutrix for the first time introduced the factum that the accused in front of the Mandir of her house took the pledge that he would treat her as his wife. She again introduced a new fact that she cooked food for the accused and his brother as accused had stated that he was trying to convince his family for their marriage. She for the first time introduced the incident that the accused made sexual advances toward her while she was lying on the bed and she pushed him away and went inside the room. Next day, he apologized to her for his act and conduct. The aforesaid improvement in the version of the prosecutrix cast a doubt on the authenticity of her version as the aforesaid facts were never the part of her statements made by her before different authorities. The Prosecutrix repeatedly stated that the accused for a span of 2-3 years kept on giving assurances that he would marry her and would convince his parents and relied upon the audio recording that is Ex.PW3/3 and transcript of the same

Ex.PW3/4. The said audio recording is of 18.09.2019 i.e. the time she moved first complaint. The said recording reveals the bond between the prosecutrix and the accused, but it does not mention that the accused was giving any assurances of marriage to the prosecutrix though there is a conversation wherein the prosecutrix is insisting upon the accused to return back. Further, the compromise Ex.P3 which is heavily relied upon by the prosecutrix alleging that at the time of compromise, the accused took a month's time from her to convince his parents for their marriage. The aforesaid factum is not the part of the compromise Ex.P3. To the contrary Ex.P3 mentions a quarrel and that they would settle their dispute among themselves. The said compromise bears signatures of the prosecutrix and accused. Apart from the oral version of the prosecutrix that suffers from material improvements, there is no cogent and convincing evidence on record to establish that prosecutrix entered into a sexual relationship with accused solely on his promise to marry her.

Thus it is apparently clear that the prosecution failed to establish the commission of the offence as alleged.

22. As to how an appeal against a judgment of acquittal is to be dealt with, the Hon'ble Supreme Court in ***Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427*** has held as under:-

“ 8. While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”

23. In view of the aforementioned discussion and keeping in view the law laid down in *Kallu @ Masih & Ors. Case (supra)*, we find no reason to interfere with the well reasoned judgment of acquittal passed by the Judge, Fast Track Special Court, Chandigarh. Therefore, the criminal appeal filed by the complainant challenging the acquittal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

November 18, 2024
Vinay

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