

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

207

CRA-AS-175-2015  
Reserved on: 02.04.2024  
Pronounced on:03.04.2024

RAJPAL ...APPELLANT  
Versus  
STATE OF HARYANA AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohit Garg, Advocate for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana

Mr. S.S. Dinarpur, Advocate with  
Mr. Rohit Singh, Advocate  
for respondent No.2 and 3.

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HARPREET SINGH BRAR, J.

1. The present appeal has been preferred against the judgment of acquittal dated 09.09.2015 passed by learned Additional Sessions Judge-cum-Judge, Special Court for Heinous Crime Against Women, Hisar in Sessions Case No.75 of 2015 arising out of FIR No.147 dated 30.01.2014 registered under Sections 354(D), 452, 34 of IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) at Police Station- Sadar, Hisar.
2. The facts, in brief, are that on 30.01.2014, information was received from Control Room, Hisar that the prosecutrix was admitted in a hospital due to poisoning. Consequently, learned JMIC, Hisar recorded statement of the prosecutrix in the hospital. Since she was not in a position to make a verbal statement and could write, therefore, her statement was recorded by putting her questions in writing. The prosecutrix stated that when she was

alone at her home and came out of her house, respondent no.2 and 3 (private respondents) had come to her house but at the same time, her younger uncle also came and on seeing him, both the private respondents ran away. She further stated that she consumed poison out of fear. Thereupon, the FIR (supra) was registered and the private respondents were charge-sheeted by the learned trial Court vide order dated 14.11.2014 for the offences punishable under Sections 452, 354D read with Section 511, 506, 306 read with Section 34 of IPC and Section 12 of the POCSO Act, to which they pleaded not guilty and claimed trial. Ultimately, the learned trial Court after recording that the prosecution had failed to bring home the guilt of the private respondents-accused, acquitted them of the charges framed against them. Aggrieved by the same, the appellant-complainant has approached this Court by way of present appeal.

3. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it is manifestly clear that the prosecutrix consumed poison out of fear as her uncle happened to have come to the house at the same time as the private respondents, as clearly stated by her in her dying declaration. Further, PW5 being the consulting physician of the hospital where the prosecutrix was initially hospitalized, admitted in his cross-examination that neither the prosecutrix (deceased) nor her attendant disclosed the fact of consumption of poison to him while he was administering treatment to the prosecutrix. It was after receiving the blood test report of the prosecutrix which revealed liver and kidney damage that she was referred to a higher centre of medical care. Similarly, PW4 being the consulting physician of the hospital where the prosecutrix was referred to and hospitalized, also admitted in his cross-examination that initially the prosecutrix tried to conceal that she had consumed poison and only on being asked repeatedly, she disclosed about the

same and only then the proper treatment started. It is further revealed by the aforesaid witness that incident as to when the uncle of the prosecutrix arrived at the house at the same time as private respondents, took place on 17.01.2014, whereas, the prosecutrix consumed poison on 21.01.2014. Also, it appears that the parents of the prosecutrix had suppressed the information qua the alleged incident and refrained from informing the concerned police as the incident took place on 17.01.2014 but it was the physician of the hospital who ultimately informed the police on 30.01.2014 after the prosecutrix was hospitalized. Moreover, the material witness PW2 being the uncle of the prosecutrix and the eye-witness to the alleged incident, has made numerous improvements in his testimony. In light of all the aforesaid facts clubbed together, this Court finds the present appeal sans merit.

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.

03.04.2024  
manisha

(HARPREET SINGH BRAR)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |