

2024:PHHC:090726



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CRM-A-803-2022 (O&M)
Date of Decision: 15.07.2024

Narinder Kaur ...Petitioner
Versus
Ranjit Kaur and others ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Deepak Arora, Advocate, for the applicant/appellant.

N.S.SHEKHAWAT, J. (Oral)

CRM 42420 of 2022

1. The applicant/appellant has moved the present application with a prayer to condone the delay of 302 days in filing the present appeal.
2. I have heard learned counsel for the applicant/appellant and perused the record.
3. For the reasons mentioned in the application, the same is allowed and the delay of 302 days in filing the present appeal is ordered to be condoned.

CRM-A-803-2022

1. The present appeal has been preferred by the appellant/complainant against the impugned judgment dated 31.07.2019 passed by the Judicial Magistrate 1st Class, Batala, whereby, the respondents

have been acquitted of the charge under Sections 323, 452, 506 and 34 IPC in a complaint case.

2. In the present case, a complaint was filed by the appellant/complainant in the Court of Judicial Magistrate 1st Class, Batala, against the respondents/accused by alleging that at about 06/07.00 p.m., the respondents had illegally trespassed in the house of the appellant. Ranjit Kaur, respondent No. 1 had illegally and forcibly fixed angles in the wall of the room of Gurpreet Singh son of appellant and had connected electric wires with those, which might cause electrocution during the rainy season. The complainant repeatedly requested them to remove the angles and the electric wires, but, on this, the respondents got annoyed and after entering the house of the appellant, they extended threats to kill her. Ranjit Kaur, respondent No. 1 exhorted them to teach a lesson to the complainant for objecting and protesting and all the accused attacked her. Respondent No. 1 had pulled her of her hair and respondent No. 4 had torn her clothes. Respondents No. 2 and 3 had caused injuries on her person and gave her kicks and fists blows. Respondent No. 3 gave kicks in her stomach and other parts of the body, whereas, respondent No. 4 had snatched her gold ear rings from her ears. They tried to strangle her also and threw her on the ground. Due to this, the appellant became unconscious. Later on, the son and husband of the appellant reached at the spot and they called their neighbours Charanjit Kaur, Gurinder Kaur etc. The appellant was shifted to the

hospital, where she was medico legally examined. The application was moved to the police for taking action, but due to political connections of the respondents, no action could be taken on the complaints. Ultimately, the appellant was constrained to file a complaint before the Court of Area Magistrate.

3. During the preliminary evidence, the appellant examined CW1 Surinder Kaur, Charanjit Kaur as CW2 and appeared herself as CW3. She also examined Dr. Mainerjit Singh as CW4, who proved the MLR Ex.PB on record. PHC Surjit Pal was examined as CW5, proved on record the application moved by the appellant and a copy of DDR No. 23 dated 02.07.2013 as Ex.CW5/B. Finding a *prima facie* case, the respondents were summoned to face trial for commission of the offences punishable under Sections 323, 452, 506 and 34 IPC.

4. After their appearance, the precharge evidence was led by the appellant and Narinder Kaur got herself examined as CW1 and supported the averments made in the complaint. Charanjit Kaur, the alleged eye witness appeared as CW2, but supported the CW1 Narinder Kaur in all material particulars. Dr. Maninderjit Singh appeared as CW3 and proved the MLR Ex.PB pertaining to both the injuries suffered by Narinder Kaur. Thereafter, charge under Section 452, 323, 506 and 34 IPC was framed against the respondents. Even, in after charge evidence, the respondents suffered a statement that

earlier cross-examination of CW1 to CW3 be read as after charge cross-examination on behalf of the respondents.

5. After the completion of the investigation, the statements of all the respondents were recorded under Section 313 Cr.P.C. and they claimed their false implication.

6. I have heard learned counsel for the appellant and perused the record.

7. Learned counsel for the appellant vehemently contends that the appellant was a house hold lady and was seriously injured by the respondents. Specific roles were assigned to all the respondents and the ocular evidence was corroborated by the testimony of CW3 Dr. Maninderjit Singh, who had proved the MLR Ex.PB on record. He further contends that the trial Court had taken into account the minor contradictions in the statements of the witnesses. Even, the statement of CW2 Charanjit Kaur was wrongly rejected by the Court and the trial Court failed to appreciate that the respondents had intentionally targeted the appellant and wrongly caused her injuries. Even specific roles were assigned to all the accused and impugned judgment is based on misappreciation of evidence.

8. After hearing the learned counsel for the appellant, this Court finds no substance in the arguments raised by the learned counsel for the appellant. In the present case, the appellant had appeared as CW1 and had reiterated the averments made in the

complaint. As per her, after trespassing in her house, all the respondents had caused her serious injuries. Even, her clothes were torn by the respondent No. 4 and she was caused multiple injuries by the accused. Even, her gold ear rings were snatched and the accused had broken the house hold articles and she became unconscious. She also placed reliance on the MLR Ex.PB and the application moved before the police as Mark C. However, she stated that no blood had oozed out from her body after she suffered injuries. Even, she could not lead any evidence with regard to the articles broken by the respondent/accused. Neither any photographs of broken articles were placed on record nor any other evidence was led to substantiate the said allegations. Apart from that, the appellant had examined CW2 Charajit Kaur, mother of the appellant. However, from her testimony, it is apparent that she had not witnessed the occurrence as she herself admitted the same in the witness box.

9. Apart from that, the appellant had examined CW3 Dr. Maninderjit Singh, who had conducted the medico legal examination in the present case and found following injuries on the person of Narinder Kaur, appellant:-

“1. A 15 x 8 cm bluish red contusion present on the medical aspect of right knee joint.

2. Complaint of pain on the anterior chest”.

10. From a perusal of the testimony of CW3 Dr. Maninderjit Singh, it is apparent that the testimony of CW1 Narinder Kaur stood

disproved. Further, in his cross-examination, even CW3 Dr. Maninderjit Singh had stated that the possibility of injuries being suffered due to sudden fall on the hard surface could not be ruled out. Thus, it is apparent that the appellant had exaggerated the allegations just to involve the respondents in a criminal case. Still further, it is also apparent from the testimonies of CW1 Narinder Kaur and CW2 Charanjit Kaur that they tried to improve their version not only in their initially complaint, but further improved, while appearing as prosecution witnesses. It was stated that the gold ear rings of the appellant were snatched, however, the said allegation was not supported by medical evidence. The appellant had not suffered any injury on her ears. Apart from that, the testimony of CW1 Narinder Kaur was supported by CW2 Charanjit Kaur only being her mother and no independent witness was examined by her, thus, the prosecution version is bereft of independent corroboration and is liable to be rejected.

11. While discussing the scope of interference by the Appellate Court, while dealing with the judgment of acquittal, the Hon'ble Supreme Court held in the matter of **Bhaskar Rao and others Vs. State of Maharashtra AIR 2018 SC 2222:2018 (5) RCR (Criminal 288)** as follows:-

“14. As the trial Court and High Court, having appreciated the evidence on record has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an

important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this Court as expressed in Tota Singh and Anr. Vs. State of Punjab, 1987 (2) RCR (Criminal) 35:1987 CriLJ 974.

The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW-2 and PW-6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such re-appreciation, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a re-appreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such, which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse: Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a

view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

12. In **Ramesh Babulal Doshi v. State of Gujarat, 1997(3)**

RCR (Criminal) 62: 1996 CrilJ 2867, this Court observed as under:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

13. Even otherwise, I have carefully perused the impugned judgment passed by the trial Court and found no reasons to overturn the findings recorded by the trial Court. The trial Court has correctly appreciated the evidence of the prosecution and the appellant has failed to raise any argument, which may impel this Court to set-aside the well reasoned findings recorded by the trial Court. As a consequence, impugned judgment dated 31.07.2019 passed by the Judicial Magistrate 1st Class, Batala, is upheld and affirmed.

14. Findings no merits, the present appeal is ordered to be dismissed.

15.07.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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