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

CRA-S-5772-SB-2018
Date of decision: 06.03.2024

Geeta

....Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arun Kumar Singal, Advocate
for the appellant

Mr. Vikas Bhardwaj, AAG Haryana

HARPREET SINGH BRAR, J.

1. This appeal is preferred against the judgment of acquittal dated 07.09.2018 passed by Learned Sessions Judge, Panipat in FIR, bearing no. 553 dated 09.05.2017 registered at Police Station City, Panipat, under Sections 323, 379B, 506 of the IPC.

2. The facts of the prosecution case, tersely put, are that on 09.05.2017 at about 2:00 p.m., the appellant-complainant Geeta along with her neighbour Urmila, were going to the market to purchase some goods. On their way, when they reached the back side of the Government Hospital, Panipat, a young boy, who had covered his face with a handkerchief, came from the opposite side and tried to snatch the purse of the appellant-complainant. When she resisted, he assaulted her and managed to forcibly snatch her purse. The appellant's neighbour, who was accompanying her, tried to catch hold of the miscreant and in the process, managed to recognize him as one Gaurav Sharma.

While fleeing from the spot, the offender allegedly threatened the appellant that

in case she discloses his identity to anyone, he would kill her. Thereafter, the appellant along with her family members and her neighbours went to the police station and presented her written statement with her medico-legal report (MLR) and prayed that legal action be taken against respondent no. 2 i.e., Gaurav and her articles be recovered. On the aforesaid written complaint, FIR was registered against respondent no. 2-accused. After completion of the investigation, challan was presented against respondent no. 2-accused. Subsequently, respondent no. 2-accused was charged for offences punishable under Sections 323, 379-B, and 506 of the IPC, to which he pleaded not guilty and claimed trial.

3. The prosecution examined as many as 09 witnesses to prove its case. Subsequently, the statement of the accused under Section 313 of the Code of Criminal Procedure was recorded, wherein respondent no. 2-accused pleaded false implication, however, no witness was examined by him in order to prove his innocence.

4. After taking into account all the material on record, respondent no. 2-accused was acquitted by the learned trial Court vide judgment dated 07.09.2018.

5. Learned counsel for the appellant assails the judgment of acquittal on the ground that the findings of the learned trial Court are against the evidence available on file. The learned Trial Court overlooked the material evidence put forward by the appellant and the eye witness, namely, Urmila (PW-3) and has given undue importance to the minor contradictions in the testimonies of the official witnesses regarding the time and place of the occurrence as well as the manner in which the investigation was conducted. The learned Court disregarded the fact that the appellant while appearing as PW-2

and Urmila (PW-3) have clearly stated in their evidence that respondent no. 2 was guilty of the offence. Even the recovery of the stolen goods, effected from respondent no. 2-accused has been duly proved and all the witnesses to the recovery have supported the version of the prosecution. The accused should have been convicted on this fact alone.

6. Learned counsel further submits that respondent no. 2-accused has failed to substantiate the defence taken by him. The stand of respondent no. 2 that there was a pre-existing dispute between the complainant and the accused regarding unauthorized occupation of flats has not been proved as he has failed to provide any evidence or document in this regard. Lastly, learned counsel avers that the contention of the accused that it was a scuffle and not a case of snatching is completely groundless as no FIR was registered by the accused to that effect. Thus, the case has been wrongly decided against the appellant-complainant.

7. Having heard the learned counsel for the appellant and after perusing the record of the case with his able assistance, it appears that there is nothing in the judgements of the learned trial Court to indicate perversity or misreading of evidence in the judgement of acquittal. As per the MLR of the appellant (Ex. PJ), the time at which the alleged physical assault occurred has been mentioned as 7:30 a.m. by Dr. Rinku Sangwan (PW-7). However, as per the written complaint (Ex. PA) the time of the alleged incident is stated to be around 2:00 p.m. Further, a perusal of the MLR reveals that the appellant was medico legally examined at Government Hospital, Panipat on 09.05.2017 at 4:05 p.m. The FIR (Ex. PD) shows that the said MLR and the written complaint were presented at the police station at 6:21 p.m. However, as per the testimony of the Investigating Officer, ASI Mukesh Kumar (PW-6), the investigation of

the case was handed over to him at 2-2:30 p.m. on the same day and he went to the place of incident along with the complainant at about 3:00 p.m. Furthermore, the Investigating Officer, ASI Mukesh Kumar, in his cross examination stated that the accused was arrested at 7:30 p.m., whereas according to HC Rajender Singh (PW-9) the accused was arrested at about 9:00p.m. Such glaring contradictions in the testimonies of the prosecution witnesses go to root of the matter and suffocate the prosecution case completely.

8. Moreover, as per the version of the accused, some altercation had taken place between the accused and the appellant on the morning of 09.05.2017. Resultantly, the accused got himself medico legally examined from Civil Hospital, Panipat at 12:50 p.m. on the same day. It is far-fetched to assume that somebody who has just committed the offence of snatching would go the hospital to get himself medico legally examined. Also, as stated above, the appellant got herself medico legally examined at 4:05 p.m. i.e., after the accused got himself examined. This further lends credence to the version of the accused that a false case on a completely different set of allegations was registered against him.

9 Furthermore, it is an established fact that both the accused and the appellant are residents of PWD colony. Apparently, on the complaint of some of the residents of the PWD colony, the Department had issued letters for vacation of the house allotted to the mother of the accused. Later, the said letters were declared null and void by the learned Civil Court (Ex. D1). Given this backdrop, an altercation between the accused and the appellant cannot be ruled out. Lastly, cross examination of Dr. Rinku Sangwan reveals that no bodily

injury was found on the person of the appellant. As a result, the prosecution failed to prove its case beyond the shadow of reasonable doubt.

10. 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. (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.

11. In view of the facts and circumstances of the case, this Court finds that learned counsel for the 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 appeal and the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

06.03.2024
Neha

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