



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

CRM-A-1727-2023

Date of decision: 03.09.2024

Balbir Kaur

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Bhumika Sachan, Advocate and
Mr. Lupil Gupta, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant application under Section 378 (4) of Cr.P.C. is preferred against the order of acquittal dated 13.10.2023 passed by learned Judicial Magistrate 1st Class, Moga, in complaint No.COMI/82/2019 dated 25.07.2019 filed under Sections 452/354/323/506/34 of IPC.

2. The facts of the case as alleged are that on 02.06.2019 at around 05:30 P.M., when the complainant returned home from her duty and entered her house, all the accused persons entered into her house and all of them laid her on the ground. Accused/respondents No.2 & 4, namely, Manjit Kaur and Krishan Kumar, respectively, gave stick blows on the person of the complainant which hit her left arm and fingers, as a result of which, she fell down on the ground. Accused/respondent No.3, namely, Rani, gave fist blows on the chest and mouth of the complainant while she was laying on the ground and accused/respondent No.4 also gave foot blows on the private parts of the complainant and torn off her *salwar* and when she raised hue and cry, her daughter and neighbours came and all the accused persons ran away from the

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spot by extending threats to the complainant with dire consequences. Thereafter, the applicant filed the complaint (*supra*) against the accused/respondents wherein, the respondents were acquitted by the learned trial Court. Aggrieved by the same, the applicant-complainant has approached this Court by way of present application seeking leave to file an appeal.

3. Having heard the learned counsel for the applicant and after perusing the record with her able assistance, it transpires that the alleged occurrence has remained unproven. It has also come to the fore from the cross-examination of medical expert (CW-4) that the complainant did not receive any injuries at the hands of the accused persons. Further, both the eye-witnesses have not supported the prosecution version. As per the testimony of the eye-witnesses, neither the alleged occurrence took place at the house of the complainant nor were her clothes torn by the accused persons. In addition there are material discrepancies between the testimony of the complainant and the eye-witnesses. Therefore, in absence of any cogent and convincing evidence, the learned trial Court has rightly acquitted the accused persons.

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



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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 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.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

03.09.2024*Neha*

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