



CRM-A-2145-MA-2018

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209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2145-MA-2018 (O&M)
Date of Decision: 07.05.2024

PANA DEVI

...Applicant-Appellant

Versus

BAJRANG AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mukesh Yadav, Advocate
For the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)CRM-34829-2018

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 31 days in filing the accompanying application under Section 378(4) of Cr.P.C.

For the reasons mentioned in the application seeking condonation of delay, the same is allowed and the delay of 31 days in filing the aforesaid application is condoned.

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1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgement dated 21.05.2018 passed by learned Judicial Magistrate Ist Class, Mahendergarh in complaint case No. COMI-20/2015 dated 27.01.2015 filed under Sections 323, 452, 354, 506, 166 and 120-B of IPC, vide which the respondents were acquitted of the charges framed against them.



2. The facts, in brief, are that it was alleged by the applicant-complainant that on 24.10.2024, respondent no.1 & 2 entered into her house in an inebriated state and tried to rape her. When the applicant raised hue and cry, 3-4 people came at the spot, upon which, the aforesaid accused fled away from the spot. Then again during the night of 24.10.2024, when the applicant was going to use the washroom situated outside her house, respondent no.1 & 2 caught hold of her and tried to rape her. They also gave injuries on her lips and breast and also gave slaps and fist blows to the applicant. When the applicant raised noise, her husband along with another person came on the spot and saved her. It was also alleged by the applicant that respondent no.1 and 2 had tried to kill her and her husband by hanging them a few days prior to the date of the aforesaid incident. Then on 25.10.2014, the applicant went to the concerned Police Station where she met respondent no.3 & 4, being the police officials. The said respondents told the applicant to go to the Government Hospital to get medically examined. It was further alleged by the applicant that respondent no.3 and 4 despite being public servants colluded with respondent no.1 and 2 and neither got her medical conducted nor recorded an FIR upon complaint made by her. They also used criminal force to outrage the modesty of the applicant by disrobing her and compelling her to get naked. Due to the said inaction by the concerned police, the applicant filed the private complaint (supra) before the learned trial Court. During the course of the trial, respondent no.1 & 2 were charged for commission of offences punishable under Sections 354, 354-B, 452, 506 IPC, whereas, respondent no.3 & 4 were charged for commission of offences punishable under Sections 217, 354-A IPC, to which all of them pleaded not guilty and claimed trial. Ultimately, all of the aforesaid accused



were acquitted of the respective charges framed against them and aggrieved by the said order, the applicant has approached this Court by way of the present application/appeal.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. It transpires that the applicant was unable to produce any medical document including an MLR on record in regard to the injuries allegedly meted out to her by the respondents. Further, there are material contradictions between the averments made by the applicant in her complaint and her cross-examination. Even the eye-witness examined as CW3 did not support the version of the complainant. Moreover, the applicant failed miserably to bring on record any material evidence to establish the guilt of the respondents-accused. Therefore, this Court finds no merit in the present petition.

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.

(HARPREET SINGH BRAR)
JUDGE

07.05.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No