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CRM-A-1697-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1697-2023 (O&M)
Date of Decision: 14.08.2024

STATE OF HARYANA

...Applicant-Appellant

Versus

MUKHTIAR SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, AAG Haryana for the applicant.

HARPREET SINGH BRAR, J. (ORAL)**CRM-51088-2023**

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 214 days in filing the accompanying application under Section 378(3) of Cr.P.C.

For the reasons mentioned in the application, the same is allowed and delay of 214 days in the filing the aforesaid application is condoned.

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1. This instant application under Section 378(3) Cr.P.C. is preferred against the judgement of acquittal dated 20.01.2023 passed by learned Additional Sessions Judge (Fast Track Special Court), Sirsa in Sessions case No. 113 of 2019 arising out of FIR No.39 dated 27.04.2019 under Sections 341, 354, 354-A, 354-D, 506 of IPC & Sections 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO Act) & Section 3(w)(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SCST Act), whereby, the respondent-accused was acquitted of the charges framed against him.



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2. The facts, in brief, are that mother of the victim moved a complaint dated 27.04.2019 before the concerned police, wherein, it was alleged that her daughter, who was about 7 years old and a student of 3rd standard, was molested by the respondent when she was returning from her school. It was alleged that upon finding her alone, the respondent confined the victim and then proceeded to molest and kiss her. When the victim raised hue and cry about the same, her cry was heard by the complainant as she was returning to her house from the fields and she immediately ran towards her daughter, which led to respondent fleeing the scene. It was also alleged that while fleeing the scene, the respondent issued death threats to the complainant as well as her daughter. The aforesaid complaint formed the basis of FIR (supra) and after completing necessary formalities, the respondent was arrested on 27.04.2019 and police report was presented. Consequently, trial ensued and the respondent-accused was ultimately acquitted of the charges framed against him by way of the impugned order dated 20.01.2023. Aggrieved, the State of Haryana has approached this Court by way of the present application/appeal.

3. I have heard the learned State counsel appearing for the applicant-State and carefully perused the record with his able assistance. It transpires that parents of the victim had borrowed an amount of Rs.20,000/- from the father of the respondent-accused and when the said amount was demanded back, the complainant proceeded to embroil the respondent in a frivolous case. Erstwhile Sarpanch of the village to which the parties belong also deposed that during his tenure, no such complaint was received by the Panchayat. It has come to the fore that there are material contradictions between the deposition of the complainant as well as the victim and the contents of the complaint as well as the statement made under Section 164 Cr.P.C. A thorough inspection of the case file shows that the prosecution has miserably failed in establishing the guilt of the accused. In the light of the aforesaid discussion, the impugned order deserves to be upheld.



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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

14.08.2024

Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>