



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

**CRM-53597-2023 in/and
CRM-A-1812-2023 (O & M)
Date of decision: 07.11.2024**

STATE OF HARYANA

...APPLICANT

V/S

RAVINDER

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

HARPREET SINGH BRAR, J. (ORAL)

CRM-53597-2023

The present application has been filed under Section 5 of the Limitation Act, 1963 read with Section 482 Cr.P.C. seeking condonation of delay of 171 days in filing the application under Section 378(3) Cr.P.C.

For the reasons mentioned in the application, the same is allowed and the delay of 171 days in filing the aforesaid application is condoned.

CRM-A-1812-2023

1. The present application is preferred against the judgment of acquittal dated 28.03.2023 passed by learned Additional Sessions Judge, Fast Track Special Court, Hisar, in the case stemming from FIR, bearing No.17 dated 26.01.2019 under Section 12 of POCSO Act, Sections 354-A(1)(i), 451, 506 IPC and Section 3(w)(1) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Bass Tehsil Hansi, District Hisar.

2. Brief facts of the case are that in the intervening night of 25/26.01.2019 respondent-accused committed trespass by entering into the house of victim a minor girl age below 16 years (PW3) and respondent-accused



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also made physical contact with the victim and made an attempt to outrage her modesty and sexually harassed the victim beside making criminal intimidation the victim fully knowing that she belonged to Scheduled Caste. On the basis of this, FIR was registered against the respondent-accused.

3. Having heard the learned State counsel and after perusing the record of the case with his able assistance, it transpires that on a comparative analysis of testimonies of star witnesses i.e. victim (PW-3), victim's father (PW-5) and victim's brother (PW-8), the facts are visible on their face that initially there was no mention of the allegations that respondent-accused had pulled victim towards himself. As per initial allegations, there was not even a remote mentioned of the fact that victim's father and brother had woken up and saw the respondent-accused present in the room or running away. But the victim while appearing as PW-1, stated about the new fact that her father woke up and made a phone call to the police. Similarly, victim's father and brother while appearing as PW-5 and PW-8 respectively, deposed the said fact, which is totally different from the initial version of the victim. Further, mother of the victim was not examined, rather she intentionally kept herself away from the witness box. Similarly, aunt of the victim was also not testified, who, as per victim, was accompanying her at the time of lodging of complaint. Moreover, as per the admissions of victim, her family used to tether their cattles and to keep other goods in the plot, which was vacant but subsequently purchased by the respondent-accused and there remained a dispute. As such, the possibility of making allegations to take revenge cannot be ruled out and there are so many deviations and improvements in the testimonies of the star witnesses, therefore, it is not safe to believe the allegations of the victim. As a result, the evidence led by the prosecution do not inspire confidence of this Court.



4.

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 vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. 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 in *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 State counsel 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.

November 07, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |