



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

**CRM-12151-2019 &
CRM-12150-2019 in/and
CRM-A-732-2019
Date of decision: 07.01.2025**

NIRMAL SINGH

...APPLICANT/APPELLANT

V/S

KULDEEP SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.S. Mamli, Advocate
for the applicant/appellant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-12151-2019

This is an application for condonation of delay of 23 days in filing the present application.

For the reasons mentioned in the application, same is allowed.

Delay of 23 days in filing the appeal is hereby condoned.

CRM-12150-2019

This is an application for placing on record the copy of affidavit Annexure A-1 and dispensing with filing the typed/certified copy of Annexure A-1 and judgment dated 18.12.2018 passed by learned Sub Divisional Judicial Magistrate, Ratia.

For the reasons mentioned in the application, same is allowed.

Copy of affidavit Annexure A-1 and judgment dated 18.12.2018 passed by learned Sub Divisional Judicial Magistrate, Ratia are taken on record subject to all just exceptions.



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MAIN CASE

1. The present application is preferred against the judgment of acquittal dated 18.12.2018 passed by learned Sub Divisional Judicial Magistrate, Ratia in a complaint filed under Sections 323/342/506 of IPC and 3/4 of SC/ST Act registered at Police Station Ratia.

2. In brief, the complainant's case is that on 17.09.2014, his brother Tarsem Singh @ Soma had gone for labour work in the fields of Harvinder Singh and Gurvinder Singh. At that time, Kaka @ Gurvinder sent his son for taking a mobile and his son concealed the mobile. Harvinder Singh (respondent No.3 herein), Gurvinder Singh (respondent No.4 herein) and Kuldeep Singh (respondent No.1 herein) leveled the allegation of stealing the mobile on namely Tarsem Singh, and they have also assaulted his brother. The accused persons have also threatened to kill Tarsem Singh and kept him confined in the motor room till evening. When Tarsem Singh narrated his plight to him, he called up Harvinder Singh on his mobile, but the accused threatened to teach him a lesson. In the meantime, accused Jitender Pal Singh (respondent No.2 herein), Harvinder Singh, Gurvinder Singh sons of Sh. Kuldeep Singh, Kuldeep Singh son of Sh. Partap Singh with *dandas* and *lathies* came there and caused injuries on his person as well as to his son Sukhdev Singh and his brother Tarsem Singh. When he raised alarm, many people came there and rescued them from the clutches of the accused. The matter was reported to Police Station Ratia, but no action was taken. Hence, the present complaint.

3. Having heard the learned counsel for the applicant/appellant and after perusing the record of the case with her able assistance, it transpires that there is a delay of 06 months in filing the present complaint, which remains



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unexplained and only introduces a trumped up versions to rope in innocent persons. It is the complainant's own case that the accused persons were armed with *lathis* and *dandas* and they had already confined his brother for reasonable time in motor room and it is not the case that there was any prior enmity or dispute with the accused persons resulting into the alleged confinement and thereafter assaults on their person. No time of alleged confinement as well as assault on complainant and other persons was mentioned in the record. The MLRs of the complainant, his son and brother reflects that they were examined after about 02 hours of accused persons' examination, which reflects that the present complaint is filed just to counter the police case against the complainant and others. Further, there are many infirmities and contradictions in the testimonies of the witnesses and no any independent witness has been examined, who can explain the incident independently. There is nothing on record to substantiate that the accused threatened to kill the complainant. As such, the complainant has failed to prove the guilt of the accused persons beyond reasonable shadow of doubt.

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 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*



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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 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.

January 07, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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