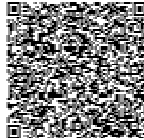


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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.222

CRM-A-2596-2019 (O&M)
Date of decision : 13.02.2025

Kulwinder Kaur

..... Appellant

VERSUS

Sukhwinder Singh and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Lovinder Kaur, Advocate for
Mr. S.S. Brar, Advocate, for the appellant.

KIRTI SINGH, J. (Oral)

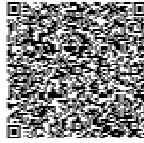
1. The instant application under Section 378(4) of Cr.P.C. has been filed for grant of leave to appeal for challenging the impugned order dated 03.09.2019 passed by the learned Judicial Magistrate First Class, Malerkotla, whereby the respondents/accused have been acquitted in a complaint case bearing No. COMI/11/2014 under Sections 452, 354, 354-A, 341, 323, 357 & 506 read with Section 34 of Indian Penal Code, 1860.

2. The facts of the present case are that on 29.11.2013, when the complainant-appellant was present in her house, accused Nos.1 to 6 forcibly entered her house and accused Nos.1 to 3 were armed with sticks. Accused Nos.3 and 4 caught hold of the complainant- appellant and accused No.1 tried to outrage her modesty. She raised an alarm, hearing which her husband, brother-in-law and one Kali came to the spot, upon which all the accused threatened her and fled. Thereafter, the complainant-appellant was taken to Civil Hospital, Amargarh and the instant complaint was lodged.

3. Learned counsel for the appellant submits that the learned trial

Court has erroneously acquitted all the accused. Her version of the case was

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fully supported by the testimonies of her husband and CW-5 Parmeshar Singh (eye-witness). Even an MLR was placed on record to corroborate her testimony, but the same was overlooked by the learned trial Court and the impugned order was wrongly passed.

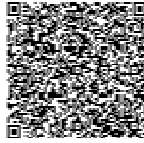
4. Heard.

5. The allegations against the accused in the instant case were that in furtherance of common intention, they entered the house of the appellant, restrained her and outraged her modesty, also causing simple hurt to her. However, a perusal of the judicial file reveals material contradictions in the evidence on record and the testimonies of the complainant witnesses, insofar as the oral narration of the injuries inflicted on the person of the appellant does not tally with the medical evidence available. It was submitted that the appellant reached the hospital within half an hour after the scuffle took place, but the duration of the injuries as indicated in the MLR is between 6-12 hours. Further, as per the MLR, only abdominal pain and reddish abrasions were reported by the appellant, for which she claims to have been admitted in the hospital, a version which seems highly improbable. Moreso, the admitted factum of pre-existing disputes and prior litigation further raises suspicion regarding the bona-fide of the appellant.

6. Following the observations made by its Constitutional Bench in *M.G. Agarwal v. State of Maharashtra (1963) 2 SCR 405*, the Supreme Court in *Ghurey Lal v. State of UP (2008) 10 SCC 450* elaborated as to when an order of acquittal by the trial Court can be disturbed, by holding thus:

"69. The following principles emerge from cases

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1. The Appellate Court may review the evidence in appeals against acquittal under sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that the trial court was wrong.

70. In light of the above, the High Court and other appellate courts should follow the well-settled principles crystallized by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

i. The trial court's conclusion with regard to the facts is palpably wrong;

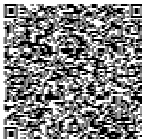
ii. The trial court's decision was based on an erroneous view of law;

iii. The trial court's judgment is likely to result in "grave miscarriage of justice";

iv. The entire approach of the trial court in dealing with the evidence was patently illegal;

v. The trial court's judgment was manifestly unjust and unreasonable;

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- vi. The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.*
- vii. This list is intended to be illustrative, not exhaustive.*

- 2. The Appellate Court must always give proper weight and consideration to the findings of the trial court.*
- 3. If two reasonable views can be reached - one that leads to acquittal, the other to conviction-the High Courts/ Appellate Courts must rule in favour of the accused.”*

7. In light of the aforesaid discussion, this Court is of the considered opinion that in the case at hand, there is no infirmity or irregularity in the impugned order whereby learned Trial Court has acquitted the respondents. The same being speaking, well reasoned and based upon correct appreciation of facts, applicable law & judicial precedents, needs no interference. As a corollary, the leave to appeal is declined.

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

(KIRTI SINGH)
JUDGE

13.02.2025
Ramandeep Singh

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