



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

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**CRM-A-1761-2023
Date of Decision: 01.05.2025**

JAIDEV @ KAKA

.....APPELLANT

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Raj Kapoor Malik, Advocate
for the applicant/appellant.

SANDEEP MOUDGIL, J

1. The application under [Section 378\(4\)](#) CrPC has been filed by the appellant seeking leave to appeal against the judgment dated 16.08.2023 passed by JMIC, Kaithal (in short, 'the trial court'), vide which the respondent has been acquitted in a complaint filed by the appellant under Sections 499, 500 and 501 of IPC.

2. In brief, the case of the applicant/appellant is that after investigation conducted by Assistant Sub-Inspector Shiv Kumar, on the application moved by accused bearing No.360 dated 23.11.2013, an FIR No. 326 dated 26.11.2013 was registered at Police Station-City, Kaithal. Wherein the accused had levelled false allegations of rape upon the applicant/appellant, committed prior to 16.11.2013. Further averred that on 28.11.2013, the statement of accused under Section 164 of Cr.P.C. was recorded by Ms. Sonia Sheokand, the then learned Judicial Magistrate First Class, Kaithal and



thereafter, counseling of accused was got conducted by Ms. Shashi Rana, Advocate. Further averred that on 26.11.2013, in the newspaper namely "Dainik Jagran" and "Dainik Bhaskar" the news regarding the rape on accused being committed by the applicant/appellant was published. The applicant/appellant along with his relative namely Vikas (son of Brahm Dutt, resident of Gohana District Sonapat) was present at his house and two friends of the applicant/appellant namely Naveen Kumar (son of Jagdish) and Jaswinder (son of Ajmer), both residents of Kaithal were also sitting there. When they read the said news, then the applicant/appellant was shocked physically, mentally and socially. On the same day, the police of Police Station-City, Kaithal called the applicant/appellant to join the investigation of the said case. During investigation, the accused again got recorded her statement to the investigating officer, wherein she/accused retracted from her previous statement and subsequently, denied of having committed rape upon her by the applicant/appellant. Thereafter, on 03.12.2013, the accused also got recorded her statement under Section 164 of Cr.P.C. to Ms. Sonia Sheokand, the then learned Judicial Magistrate First Class, Kaithal, wherein she again denied of having committed any rape upon her by the applicant/appellant. She/accused also executed an affidavit in this regard. On 04.12.2013, the investigating officer submitted the final report under Section 173 of Cr.P.C. in the Court. On 28.05.2015, the accused again got recorded her statement in the Court of learned Additional Chief Judicial Magistrate, Kaithal wherein she stated that she is satisfied with the investigating conducted by the police. The applicant/appellant is having social roots in the society. Due to the illegal act



of accused, the applicant/appellant had suffered a great physical, mental, social and financial agony. This illegal act of accused has lowered down the status of applicant/appellant in the eyes of society, relatives, friends, colleagues and every member of family. This loss can not be compensated in any manner. Hence, the present complaint.

3. It is contended that the judgment passed by the trial Court suffers from grave illegality, perversity and the same is based upon surmises and conjectures and as such the same is liable to be set aside. It is further contended that the story of the prosecution is fully corroborated by oral as well documentary evidence led by the PWs. He further states that the Trial Court has observed that the applicant/appellant has failed to examine any independent witness to corroborate his version of complaint.

4. He further argues that the accused person has intentionally tried to harm the reputation of the applicant/appellant by raising false allegations of rape against him. In pursuant of which, FIR No.326/2013 was registered which was later on found to be false and fabricated and was subsequently cancelled. Despite being a fully proven case, the trial Court has wrongly and illegally acquitted the accused. Hence, the impugned judgment dated 16.08.2023 is liable to be set aside.

5. I have heard learned counsel for the applicant/appellant and gone through the record.

6. Before proceedings further, this Court would first take a note of the provisions involved in the present case i.e. Section 499 and 500 IPC which are discussed hereinbelow :-



Section 499 defines defamation as an act where a person, by words spoken or intended to be read, or by signs or visible representations, makes or publishes any imputation concerning any person with the intention to harm, or knowing or having reason to believe that such imputation will harm, the reputation of that person

The essentials of defamation under Section 499 IPC are:

- ***Defamatory Statement or Imputation:*** *The statement must be capable of harming the reputation of the person by lowering their moral or intellectual character, or lowering their credit, or bringing them into disrepute in society.*
- ***Reference to a Person:*** *The defamatory statement must refer to a specific person or a group identifiable so that others can understand who is defamed.*
- ***Publication:*** *The statement must be communicated to at least one person other than the person defamed; mere private thoughts or statements to the person concerned do not amount to defamation.*
- ***Intention or Knowledge to Harm:*** *The person making the statement must intend to harm or know that the statement is likely to harm the reputation of the person.*
- ***Imputation by Any Means:*** *The imputation can be made by spoken words, written words, gestures, or any visible representation.*

7. Now coming to the facts of the present case, the applicant/appellant applicant/appellant failed to prove that news of the FIR against him was published in newspapers 'Dainik Jagran' and 'Dainik Bhaskar' on 26.11.2013, as no editor or witness from the newspapers was examined. The newspaper cuttings (Mark-A and Mark-B) were photocopies without dates. The applicant/appellant also failed to establish damage to his reputation due to the FIR. The two witnesses examined (Vikas and Naveen) were either



relatives or didn't face cross-examination, rendering their testimonies unreliable. The applicant/appellant relied on the accused's statements, but these were insufficient to prove guilt. A compromise document (Ex.RW1/A) suggested a settlement between the parties, undermining the applicant/appellant's case.

8. It is a settled law as held in “*C.Antony v. K.G.Raghavan Nair, 2002 (4) RCR (Criminal) 750*” that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

9. On perusal of the judgment passed by the trial Court dated 16.08.2023, this Court is of the considered view that the said judgment is based upon the proper appreciation of the evidence led by the parties. The ground of acquittal, as has been culled out by the trial Court, cannot be said to be faulty, requiring any interference by this Court.

10. Accordingly, the leave to appeal stands declined.

11. Ordered accordingly.

01.05.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No