



2025:DHC:1690



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 3rd March, 2025**

+ **CRL.L.P. 45/2019 & CRL.M.A. 600/2019**

STATE

.....Petitioner

Through: Ms. Priyanka Dalal, APP for the State
along with SI Narender Kumar.

versus

SALEEM BEG

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

CRL.M.A. 600/2019 (For Condonation of Delay)

1. For the sufficient cause being shown, the instant application stands allowed.
2. In light of the aforesaid, the instant application stands disposed of.

CRL.L.P. 45/2019

3. The instant petition under Section 378(1) of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") has been filed on behalf of the petitioner seeking the following reliefs:



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“(a) Grant leave to appeal against Judgment and order dated 1.9.2018 passed by the Court of Ms. Ilia Rawat, Id. ASJ - Special Fast Track Court (South District), Saket Courts, New Delhi in SC No. 91/2015 arising out of FIR No.281/12, u/S. 308IPC PS Mehrauli.

(b) Summon the records in case arising out of SC No. 91/2015 arising out of FIR No.281/12, u/S. 308 IPC PS Mehrauli disposed vide Judgment and order dated 1.9.2018 passed by the Court of Ms. Ilia Rawat, Id. ASJ - Special Fast Track Court (South District), Saket Courts, New Delhi.

(c) Pass any other/ further orders as this Hon'ble Court may deem fit in the facts and circumstances of the case herein.”

4. The present case arises out of FIR No. 281/2012, registered at Police Station – Mehrauli, Delhi under Section 308 of the Indian Penal Code, 1860 (hereinafter “IPC”). The brief facts that led to the filing of the instant petition are as follows:

- a. On 25th June, 2012, at approximately 9:55 AM, a call was received regarding a quarrel near *Aulia Masjid, Andheria Mor*, which was recorded as DD No. 13A. The said call was assigned to Head Constable Jaiveer Singh, who reached the spot along with Ct. Pramod Kumar. Upon arrival, it was found that the injured, Shahul Hameed, who is the complainant herein, had been taken to AIIMS Trauma Center by a PCR van.
- b. As per the complainant, the incident arose when a student named Labib, came to his residence and asked him to remove his car. When the complainant reached the ground floor, he encountered the accused namely Saleem who allegedly ordered him to move his vehicle. A



verbal exchange ensued, following which the accused purportedly retrieved a thick stick from his car and began assaulting the complainant, striking him on the head, shoulders and buttocks.

- c. The complainant stated that he attempted to flee but was pursued, and only managed to escape after bystanders intervened. He further alleged that the incident was an extension of previous threats related to a property dispute over the *Madarsa*, which belonged to the complainant.
- d. The police registered an FIR under Section 308 of the IPC, and the matter was investigated by SI S.P. Singh. During the course of investigation, the police seized blood-stained clothes belonging to the complainant and recovered a cricket wicket, alleged to be the weapon of offence, at the instance of the accused
- e. The police also collected the complainant's MLC, which noted lacerated wounds on the left occipital scalp, but categorized them as 'simple injuries' and obtained the call detail records of co-accused persons, which did not establish their presence at the scene.
- f. The forensic analysis confirmed that the blood sample on the complainant's clothes matched his own blood, though no further incriminating forensic evidence was found linking the accused to the injuries.
- g. During the trial, the prosecution examined 11 witnesses to substantiate his case. The complainant, PW-2, reiterated his allegations, asserting that the attack by the accused was part of a larger dispute and that he



had previously received threats. PW-3, the complainant's wife, corroborated this version, adding that the accused was acting under the influence of other individuals seeking control over the *Madarsa*.

- h. PW-4, medical examiner, testified that while the injuries observed on the complainant were consistent with those inflicted by a blunt object, they were also possible from an accidental fall. PW-8 (Labib, the student) confirmed that he had been sent to call the complainant but did not witness the alleged attack. The defence, in contrast, relied on the accused's statement recorded under Section 313 of the CrPC, in which he denied the allegations and claimed that the complainant had sustained injuries due to an accidental fall while moving his car.
 - i. Thereafter, vide the judgment dated 1st September, 2018 (hereinafter "impugned judgment"), the learned Additional Sessions Judge, Special Fast Track Court, Saket (hereinafter "ASJ"), acquitted the accused Saleem Beg, finding that the prosecution failed to establish its case beyond a reasonable doubt.
 - j. Aggrieved by the acquittal, the appellant State has filed the present petition under Section 378 of the CrPC, seeking leave to appeal against the impugned judgment.
5. Ms. Dalal, learned APP appearing on behalf of the petitioner submitted that the impugned judgment passed by the learned ASJ is erroneous and unsustainable in the eyes of law. The findings recorded therein suffer from misappropriation of evidence and legal infirmities and therefore, the said judgment is liable to be set aside.



6. It is submitted that the impugned judgment is based on conjectures and surmises rather than a proper appreciation of the evidence on record. It is further submitted that the learned ASJ failed to assess the material evidence in its correct perspective, leading to an erroneous acquittal of the accused. It is also submitted that the prosecution has successfully established the guilt of the accused beyond a reasonable doubt, and the findings of the learned ASJ are contrary to the settled principles of law.

7. It is submitted that the MLC of the complainant recorded two significant head injuries. PW-4, the doctor who conducted the medical examination, explicitly stated that these injuries were most likely to have been inflicted with a blunt object. Despite this, the learned ASJ wrongly concluded that the injuries were a result of an accidental fall. It is further submitted that there was no cross-examination of PW-4 on whether the injuries could have been sustained due to an accident while moving a car, thereby, leaving his testimony unrebutted. The learned ASJ, thus, committed a grave error in rejecting the clear medical evidence corroborating the complainant's version.

8. It is submitted that it is a well-settled principle of law, as reiterated in *Abdul Sayeed v. State of Madhya Pradesh (2010) 10 SCC 259*, that the testimony of an injured witness is entitled to great weight since his presence at the scene of the crime is established beyond doubt. It is further submitted that an injured witness has no reason to falsely implicate the accused while allowing the real perpetrator to go unpunished. Despite this legal position,



the learned ASJ failed to attach due weight to the testimony of the complainant, who was the injured victim.

9. It is submitted that the testimony of PW-2 was duly corroborated by PW-3, the complainant's wife, who provided a consistent account of the incident. The learned ASJ failed to appreciate that the mere fact that another witness (PW-5) turned hostile does not, in any manner, discredit the evidence of PW-2 and PW-3. It is further submitted that the learned ASJ wrongly dismissed the testimony of the injured witness and his wife due to minor inconsistencies, which are natural in any truthful account.

10. It is submitted that the learned ASJ wrongly termed certain statements by PW-2 and PW-3 as 'improvements' and used them to discredit the prosecution's case. It is submitted that the so-called improvements were nothing but additional details that provided necessary background to the incident.

11. It is submitted that the learned ASJ acknowledged that the complainant and his wife were involved in litigation over the management of the *Madarsa*, which was the motive behind the attack. The complainant himself stated that the accused had no personal enmity with him and was merely being used by others attempting to take control of the institution. However, the learned ASJ overlooked this crucial aspect, resulting in a flawed assessment of the prosecution's case.

12. In view of the aforesaid submissions, it is prayed that the present petition may be allowed and the reliefs be granted as prayed for.



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13. *Per Contra*, learned counsel appearing on behalf of the respondent vehemently opposed the present petition submitting to the effect that the impugned judgment passed by the learned ASJ is well-reasoned, legally sustainable and does not suffer from any infirmity warranting interference by this Court.

14. It is submitted that the prosecution failed to establish the guilt of the accused beyond a reasonable doubt, and therefore, the acquittal is justified. It is further submitted that the learned ASJ carefully examined the testimonies, medical reports and forensic findings and found significant inconsistencies in the prosecution's case, leading to a lawful acquittal.

15. It is submitted that the petitioner's reliance on the MLC report and the testimony of PW-4 is misplaced as the MLC records two head injuries, but it does not categorically establish that they were inflicted by the accused. The doctor himself admitted that the injuries were also possible due to a fall, thereby, leaving room for reasonable doubt. Moreover, the burden was on the prosecution to prove conclusively that the injuries were caused by an assault, which it failed to do. It is also submitted that the injury alone is not proof of culpability unless it is directly linked to the accused through credible evidence.

16. It is submitted that the failure to produce independent eyewitnesses, reliance on testimonies with discrepancies and lack of clear forensic evidence, all contributed to the learned ASJ's finding that the prosecution's case was weak.



17. It is submitted that while the petitioner relies on *Abdul Sayeed v. State of Madhya Pradesh (Supra)*, it must be noted that the testimony of an injured witness, while carrying weight, is not immune from scrutiny. It is further submitted that the learned ASJ correctly examined the testimony of the complainant and found material inconsistencies and contradictions, particularly regarding the sequence of events, the alleged motive and the role of the accused.

18. It is submitted that the learned ASJ rightly refused to place absolute reliance on the testimonies of the complainant and his wife. The petitioner submits that minor inconsistencies should not discredit their evidence, but in the present case, the discrepancies went to the root of the matter, affecting the credibility of their claims. The complainant's changing versions and additional details introduced at different stages of the trial rightly led the learned ASJ to treat these statements with caution.

19. It is submitted that the courts have consistently held that when a witness improves their version to strengthen the case, such testimony must be treated with caution. Therefore, the learned ASJ was justified in treating such modifications as undermining the credibility of the prosecution's case.

20. It is submitted that the learned ASJ correctly observed that the accused could not be held criminally liable based on speculation about other's motives. Mere suspicion, without direct evidence linking the accused to the crime, cannot substitute for proof beyond reasonable doubt.

21. In light of the above submissions, the present revision petition is devoid of any merit and it is prayed that the same may be dismissed.



22. Heard learned counsel appearing on behalf of the parties and perused the material available on record.

23. It is the case of the petitioner that the learned ASJ mis-appreciated evidence and ignored settled legal principles. It is contended that the MLC report confirmed head injuries, yet the learned ASJ wrongly concluded they resulted from an accident. The testimony of the complainant and his wife was unfairly disregarded, despite its special evidentiary weight. It is submitted that the minor inconsistencies were wrongly termed 'improvements' and that the learned ASJ failed to consider the underlying dispute over the *Madarsa* as motive.

24. The respondent opposes this petition, asserting that the acquittal is well-reasoned and based on a proper appreciation of evidence. The prosecution failed to prove guilt beyond a reasonable doubt, with contradictions in testimonies, lack of independent witnesses and no clear forensic evidence. The MLC alone does not establish culpability, especially when PW-4 (Doctor) acknowledged that the injuries could be from a fall. The complainant's inconsistent testimony and the so-called 'improvements' weakened his credibility.

25. The submissions advanced by the learned APP essentially challenges the findings of the learned ASJ on the grounds of alleged misappreciation of evidence, erroneous rejection of prosecution witnesses, and failure to properly assess the credibility of the complainant's testimony. Hence, the core issue that arises for consideration before this Court is:-

Whether the acquittal of the accused by the learned ASJ suffers



from any legal infirmity, perversity or fundamental error in appreciation of evidence that would warrant interference by this Court?

26. In a criminal appeal against acquittal, the settled principles of law governing appellate interference must be examined. The Hon'ble Supreme Court in *Mallappa v. State of Karnataka*, (2024) 3 SCC 544, has laid down the guiding principles to be followed by the appellate court while deciding an appeal against acquittal. It was held that:

- a. The appreciation of evidence must be comprehensive, covering all the oral and documentary evidence.
- b. Selective or partial appreciation of evidence may result in a miscarriage of justice and is itself a ground for challenge.
- c. If two views are possible after the appreciation of evidence, the view favoring the accused must ordinarily be followed.
- d. If the Trial Court's view is legally plausible, the mere possibility of an alternate conclusion does not justify the reversal of acquittal.
- e. If the appellate court seeks to reverse an acquittal, it must specifically address and refute each reason given by the Trial Court.
- f. A reversal of acquittal requires the appellate court to demonstrate illegality, perversity or a substantial error of law or fact in the Trial Court's decision.

27. Applying these principles to the present petition, this Court is of the view that the learned ASJ has evaluated all available evidence, including witness testimonies, medical records, forensic reports and recoveries.



28. The learned ASJ found inconsistencies in the complainant's testimony, related to the incident and prior disputes, which raised doubts about the veracity of the prosecution's version. Additionally, there were no independent witnesses to corroborate the alleged attack. The medical evidence did not conclusively support the prosecution's case, as the injuries sustained by the complainant were classified as simple and could have resulted from an accidental fall rather than an assault with a weapon.

29. Further, the learned ASJ found an absence of corroborative forensic evidence directly linking the accused to the incident. Considering these factors, the learned ASJ found inconsistencies in the complainant's testimony, material improvements in witness statements and no independent eyewitness support. Additionally, PW-4 admitted that the injuries could have resulted from a fall, making an alternative explanation possible. As held in *Mallappa (Supra)*, if two views emerge from the evidence, the one favoring the accused must ordinarily be adopted. Since the prosecution's case was not free from reasonable doubt, the learned ASJ was justified in acquitting the accused.

30. It is a settled principle that mere disagreement with the Trial Court's conclusion is not sufficient ground for interference unless the view adopted is legally unsustainable. The findings of the learned ASJ are reasonable and well-founded, particularly in recognizing material contradictions in the complainant's testimony that impact credibility and in concluding that the medical evidence alone was inadequate to prove culpability.



31. For this Court to interfere with an acquittal, it must identify illegality, perversity, or a substantial error of law or fact in the decision of the learned ASJ. However, the impugned judgment meticulously addresses evidentiary weaknesses, such as absence of independent witnesses, speculative motive, and improvements in testimonies, thereby, making the decision legally sustainable. The petitioner has not shown that the learned ASJ's findings were perverse, irrational, or contrary to law, warranting interference by this Court.

32. As per *Mallappa (Supra)*, if an appellate court seeks to reverse an acquittal, it must specifically address and refute each reason given by the Trial Court. In the present case, the petitioner's contentions do not successfully rebut the findings of the learned ASJ, particularly concerning the credibility of prosecution witnesses, inconsistencies in evidence, and alternative explanations for the injuries. Consequently, there exists no compelling ground to interfere with the well-reasoned acquittal.

33. Further, the petitioner has not demonstrated any illegality, perversity or error of law in the learned ASJ's reasoning. The judgment is well-reasoned, does not rely on extraneous considerations, and does not suffer from any legal infirmity warranting reversal.

34. Taking into consideration the discussions on facts and law, this Court does not find any merit in the arguments put forth by the learned counsel appearing on behalf of the petitioner and in view of the same, the impugned judgment dated 1st September, 2018 passed by the learned Additional Sessions Judge, Saket Court in SC No. 91/2015 is hereby, upheld.



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35. Accordingly, the instant petition stands dismissed along with the pending application(s), if any.

36. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MARCH 03, 2025

Rk/kj/ryp

Click here to check corrigendum, if any