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

Sr. No.235

**CRM-A-20-MA-2018 (O&M)
Date of decision : 15.07.2025**

Sandeep

..... Appellant

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Preeti Singh, Advocate, for the appellant.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. The present application has been filed under Section 378 (3) of Cr.P.C., seeking leave to appeal against judgment dated 09.11.2017 passed by the learned ASJ, Bhiwani (Exclusive Court), whereby the private respondents were acquitted in an FIR No.40 dated 21.05.2017 under Sections 354-A(i)/354(B)/506/34/366 & 511 of IPC, 1860.

2. Succinctly put, the prosecution version of the case is that on 20.05.2017, when the applicant-appellant was heading to a clinic for her check up, she was stopped by the private respondents, who then dragged her and attempted to kidnap her in a tempo. The appellant raised hue & cry due to which nearby shopkeepers came to her rescue, upon which the accused respondents threatened to kill her and thereafter fled away from the spot.

3. Learned counsel for the appellant would submit that the trial Court has wrongly acquitted the private respondents, despite there being specific allegations leveled against the accused persons. The involvement of the accused was also proved by the testimony of multiple prosecution

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witnesses. The evidence on record was unrebutted on the material aspect of the case, despite which the learned trial Court chose to acquit the accused persons by way of the impugned judgment dated 09.11.2017.

4. Learned State counsel submits that the prosecution, in order to prove its case examined the complainant; PW-2 who had prepared the site plan of the place of alleged occurrence; PW-3 registered owner of the auto-rickshaw purportedly used for the commission of the alleged crime; PW-4 JMIC, Bhiwani who testified qua the statement of the prosecutrix recorded before her under Section 164 Cr.P.C.; PW-5, PW-6, PW-8 & PW-9- investigating officers; and PW-7 Inspector/SHO who prepared the challan. However, citing lack of credible evidence, the accused persons were acquitted by the learned trial Court vide the impugned judgment.

5. After having heard the case and perused the record, it comes out that the present FIR was lodged at the instance of the complainant against the private respondents. Learned trial Court, while passing the impugned judgment, held that the prosecution had failed to establish the case against the accused persons beyond reasonable doubt. The deposition of the prosecutrix when compared to the allegations made in the complaint, disclose the existence of material improvements of facts. While the prosecutrix did not make any mention in the initial complaint with respect to injuries on her person which had purportedly caused bleeding, or the indecent acts committed against her by the accused persons, including the allegations of attempt to rape; however, these allegations found mention in her testimony as a prosecution witness. Further, a perusal of the testimonies of the official witnesses disclose discrepancies with respect to the timeline of

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how the events unfolded. Infact, there was a contradiction even with respect to the registration of the complaint-according to the prosecutrix, she along with 10 persons including her family members reached the police station at 10:00 a.m. on the next date of the incident; whereas PW-5 investigating officer stated that it was just 2-3 persons who had accompanied the prosecutrix to the police station at about 2-2:30 p.m. It was for this reason that the credibility of the testimonies of the prosecution witnesses was brought in question. Further, it was admitted by the prosecutrix that the initial complaint submitted by her had been scribed by a boy from her village, but she could neither advance his details, nor did she have complete knowledge with respect to the contents of the said complaint. Furthermore, it was admitted by the prosecutrix that she did not submit to the investigating agency her salwar, string of which had allegedly been broken by one of the accused. Infact, it was after a delay of 04 days that even the torn shirt of the prosecutrix was given in evidence, with no explanation with respect to delay in doing so. Moreso, no medical evidence to corroborate the allegations of the prosecutrix, though not *sine qua non*, was advanced by the prosecution. The one day delay in reporting the alleged occurrence also could not be explained by the prosecutrix. It was in these circumstances that the learned trial Court acquitted the accused, their guilt not having been established beyond the shadow of reasonable doubt.

6. Following the observations made by its Constitution 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* laid down the aforesaid principles :

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"69. The following principles emerge from cases

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. Having perused the facts of the case as also the findings recorded by trial Court, this Court is of the considered opinion that in the case in hand, there is no infirmity or irregularity in the impugned judgment/order whereby trial Court has acquitted the private 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 in the present petition is declined, and therefore, petition stands dismissed.

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

(KIRTI SINGH)
JUDGE

15.07.2025

Ramandeep Singh

Whether speaking / reasoned

Yes/No

Whether Reportable

Yes/No