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

Sr. No.225

CRM-A-1069-MA-2018 (O&M)

Date of decision : 07.05.2025

Sakshi

..... Appellant

VERSUS

Amarjit Khosla and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Gagandeep Singh Simble, 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 22.12.2017, passed by the learned JMIC, Batala, whereby the respondents/accused have been acquitted in a complaint case bearing No. 01 dated 04.01.2016 under Sections 452, 382, 354, 342, 355, 323, 506, 148 & 149 of Indian Penal Code, 1860.

2. The facts of the case are that a complaint case was registered on the allegations that on 27.12.2015 at about 12/12.30 PM, the accused-respondents, formed an unlawful assembly, and in furtherance of a common objective, committed criminal house trespass on the property of the complainant-appellant. Respondent No.7 was armed with a *sota*, with which he gave two blows to the appellant, hitting her on her left forearm and back, while the other accused-respondents pulled her hair and allegedly molested her. The appellant was purportedly rescued by her mother and one Dalip Singh, who took her to the Civil hospital. While returning from the hospital in a private vehicle, the respondents allegedly chased appellant, pursuant

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to which, the appellant was slapped and her gold chain was snatched by respondent No.7. Investigation was carried out and the respondents were put to trial. However, due to lack of cogent and convincing evidence to establish to guilt of the accused-respondents, they were acquitted by the learned trial Court vide judgment dated 22.12.2017.

3. Learned counsel for the appellant submitted that the learned trial Court has grossly erred in passing of the acquittal accused-respondents by giving them the benefit of doubt. The testimonies of the complainant, her mother and the milkman-Dalip Singh, which fully corroborated the case of the prosecution were not duly appreciated, along with the contention of the appellant that the accused-respondents wanted to take forcible possession of her house. Even the MLR of the appellant, placed on record to substantiate the allegation that the accused persons had physically attacked her after trespassing in her house, was overlooked by the learned Court, while giving weightage to the factum of delay in filing of the complaint, reason for which was validly explained by the appellant. Therefore, the present appeal against acquittal of the accused-respondents deserves to be allowed.

4. After having heard the case and perused the record, it comes out that the very first place, neither the appellant placed on record any document to establish the factum of her possession of the property which is stated to be the alleged place of occurrence, nor any site plan of the said place was submitted. On this basis, it was concluded by the learned trial Court that the necessary ingredient required for invocation of Section 452 IPC, i.e. possession of the said property on which the criminal trespass is stated to be committed, was not met. Further, there were material discrepancies in the

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ocular testimony and the documentary evidence i.e. MLR, insofar as it was stated by the appellant that she received injuries, specifically inflicted by respondent No.7 herein, on her right supraclavicular region and on her right forearm; however, as per her MLR the injuries were found on the left forearm and back of the appellant. Infact, it was categorically stated in her cross-examination that the appellant had refused to get herself admitted in the civil hospital and she did not take any medicine and treatment out the hospital, based on which the trial Court had concluded, if the complainant did not get herself medically examined from the civil hospital, then MLR from the same place creates a shadow of suspicion. Moreover, there were also discrepancies in the statements of material witnesses, wherein the appellant during her cross-examination stated, that she along with her mother went to report the matter to the police. However, her mother, while being cross-examined, stated that she never visited the police station in respect of the occurrence. There were also inconsistencies regarding the duration of the alleged occurrence. The testimony of CW-3 Dalip Singh was also not relied upon heavily, since he not only failed to name all the accused but did not disclose attribution regarding inflicting of injuries on the person of the appellant. Besides appellant's, mother and Dalip Singh being appellant witnesses, , no independence witness was examined. Further, it was an admitted fact that there was a pendency of 04 civil litigations between the parties. Under these circumstances, it was concluded by the learned Trial Court that, the prosecution had failed to eliminate the cloud of suspicion qua the alleged complicity of the respondents, and therefore, they were acquitted by giving the benefit of doubt.

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5. 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

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;

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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;

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."

6. In light of the aforesaid discussion, this Court is of the opinion, that in the case at hand, there is no infirmity or irregularity in the impugned order wherein the 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.

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

**(KIRTI SINGH)
JUDGE**

07.05.2025
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No