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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

**ON THE 3<sup>rd</sup> OF APRIL, 2024**

**CRIMINAL APPEAL No. 1359 of 2024**

**BETWEEN:-**

**SALIM KHAN S/O ABDUL GAFFUR, AGED ABOUT 56  
YEARS, OCCUPATION: LABOR R/O VILLAGE BHANPUR  
DISTT. MANDSAUR (MADHYA PRADESH)**

**.....APPELLANT**

***(BY SHRI AMAN SONI, ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH STATION  
HOUSE OFFICER THROUGH POLICE STATION  
BHANPURA, DISTRICT MANDSAUR (MADHYA  
PRADESH)**
- 2. SHEKH ASRAF @ ASRAM S/O MOHAMMAD  
ALAM, AGED ABOUT 36 YEARS, OCCUPATION:  
LABOUR VILL BHARATYA KHEDI P.S. BHANPUR  
DISTRICT MANDSAUR (MADHYA PRADESH)**
- 3. MOHAMMAD ADIL SHEKH @ ALAM S/O  
MOHAMMAD ASLAM SHEKH, AGED ABOUT 31  
YEARS, OCCUPATION: LABOUR VILLAGE  
BHARATYA KHEDI P.S. BHANPUR DISTRICT  
MANDSAUR (MADHYA PRADESH)**
- 4. MOHAMMAD AJAM SHEKH S/O MOHAMMAD  
ASLAM SHEKH, AGED ABOUT 33 YEARS,  
OCCUPATION: LABOUR BHANPUR DISRICT  
MANDSAUR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI H.S. RATHORE, GOVERNMENT ADVOCATE)***

.....  
*This appeal coming on for orders this day, the court passed the  
following:*

**ORDER**

1. This appeal has been filed under Section 378(4) of the Code of Criminal Procedure, for seeking leave to appeal against the judgment of acquittal dated 11.12.2023 passed by the learned Judicial Magistrate First Class, Bhanpura District-Mandsaur in RCT No.323/2021, whereby the accused has been acquitted from the offence under Sections 323, 294, 506/34 of the Indian Penal Code, 1860.

2. Learned counsel for the applicant has submitted that the trial Court has wrongly appreciated the evidence and acquitted the respondents. There are sufficient evidence available on record against the respondents. It is further submitted that this case is supported by the complainant as well as medical testimonies, in spite of that, the learned trial Court has acquitted the respondent under Sections 294, 325/34 & 506(Part-II) of I.P.C.. The judgment is contrary to law and to the evidence available on record. It is therefore prayed that the order of the Trial Court be set aside and the accused be convicted for the aforesaid offence.

3. Per contra, learned counsel for the respondent vehemently opposed and submitted that the impugned order has been passed after proper appreciation of the evidence available on record. Therefore, application filed by the petitioner is liable to be rejected.

4. In view of the submissions advanced by counsel for the parties, I have gone through the record. As per statement of complainant, the complainant himself stated that the FIR was lodged after 12 days from the date of incident and there is no satisfactory explanation of delay in filing FIR. As per statement of the scribe of First Information Report, Girjashankar (PW-8), complainant wanted to lodge an FIR under aggravated and graver sections, so he returned without signing the FIR. Under these conditions, the said FIR is also found

cryptic and ingenuine. That apart, there are material contradictions between the FIR and statement of complainant. In view of that, the learned trial Court has passed the order of acquittal after proper appreciation of evidence available on record. Hence, the judgment of acquittal is not suffering from any infirmity and impropriety.

5. On this aspect, the law laid down by Hon'ble Apex Court in a recent judgment of *Ballu @ Balram@ Balmukund and Anr. Vs. State of M.P. [2024 Law Suit (SC) 279]* decided on **02.04.2024**, is worth referring here :-

"20. The High Court could have interfered in the criminal appeal only if it came to the conclusion that the findings of the trial Judge were either perverse or impossible.....

21. In any case, even if two views are possible and the trial Judge found the other view to be more probable, an interference would not have been warranted by the High Court, unless the view taken by the learned trial Judge was a perverse or impossible view."

6. In view of the aforesaid, the application of leave to appeal against acquittal is hereby dismissed. Resultantly, this appeal is hereby dismissed.

7. Registry is directed to send a copy of this order to the trial Court concerned for information.

**(PREM NARAYAN SINGH)**  
**JUDGE**