

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

CRA-D No. 1751-DB of 2014(O&M)

Date of Decision: April 24 , 2015.

Sulakhan Raj

..... APPELLANT (s)

Versus

State of Punjab and another

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. A.S.Manaise, Advocate
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

HEMANT GUPTA, J.

The challenge in the present appeal is to an order dated 16.09.2014 passed by learned First Appellate Court whereby the judgment of conviction passed by learned trial court on 22.12.2010 against respondent No.2 – Amar Dass @ Amba for the offences punishable under Sections 326/324 read with Section 34 IPC was set aside while maintaining the conviction and sentence of accused – Karam Chand.

Learned First Appellate Court has recorded the following findings in respect of respondent No.2 – Amar Dass:-

“20. So far as the conviction of Amar Dass is concerned, the complainant himself deposed in his statement before the court that

Amar Dass was not went with them, when he along with Karam Chand went to answer the call of nature. There is no allegation by the complainant that Amar Dass raised any lalkara to cause injuries to the complainant, rather there is only statement that Amar Dass stated to Karam Chand that Sulakhan Ram is taking liberty with the ladies of their families. There is no allegations that Amar Dass has handed over dattar to Karam Chand for inflicting injuries on the person of complainant, rather as per statement of complainant Karam Chand, who concealed the dattar with him and caused injuries. He also admitted that his brother Surjit Kumar has not seen the occurrence. Similarly Surjit Kumar PW2 deposed that when he reached at the spot, then his brother was in an unconscious condition. He has not seen the occurrence. So Surjit Kumar was not eye witness.”

Learned counsel for the appellant has argued that the learned Additional Sessions Judge, Pathankot has not appreciated the evidence in correct perspective inasmuch as respondent No.2 – Amar Dass @ Amba was already there at the place of occurrence and exhorted his brother Karam Chand to teach a lesson to the complainant as he was teasing the ladies of the family. Therefore, the presence at the place of occurrence and his role in the commission of offence by Amar Dass @ Amba stands proved on the basis of testimony of Sulakhan Ram (PW1).

With the assistance of learned counsel for the appellant, we have gone through the statement of PW1 Sulakhan Ram and find that the role attributed to Amar Dass @ Amba is not of exhortation to cause any injury to the appellant.

Learned First Appellate Court has examined the statement of PW2

Surjit Kumar i.e., the brother of complainant, who had reached the place of occurrence after the complainant became unconscious. Therefore, learned First Appellate Court has rightly held that he is not an eye-witness of the occurrence.

The learned First Appellate Court has found that the statement of complainant is not that of exhortation to cause injuries to the complainant but only a statement that the complainant was teasing ladies of the family. In the absence of any exhortation to cause injuries on the person of the complainant, we do not find that there is any error in the findings recorded by the learned First Appellate Court granting the benefit of doubt to respondent No.2 – Amar Dass @ Amba.

In an appeal against acquittal, the findings recorded can be interfered if such findings are perverse and are not plausible on the face of it. The learned First Appellate Court has considered the evidence of PW1 Sulakhan Ram but found the same as not reliable to convict Amar Dass. The findings of learned First Appellate Court are based upon the inferences drawn on the statement of complainant. We do not find any error in the findings recorded which may warrant interference by this Court in an appeal against acquittal.

Dismissed.

(HEMANT GUPTA)
JUDGE

(LISA GILL)
JUDGE

April 24, 2015.
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