

In the High Court of Punjab and Haryana at Chandigarh

Crl. Appeal-S-1688-SB of 2014

Date of Decision: 19.01.2015.

Neelam

.....Appellant

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Satish Jain, Advocate
for the appellant.

SABINA, J.

Respondents No. 2 and 3 and had faced trial under Section 306 read with Section 34 of the Indian Penal Code, 1860 in FIR No. 106 dated 23.10.2012, registered at Police Post G.R.P, Hisar. Trial Court vide order dated 11.3.2014 ordered the acquittal of respondents No. 2 and 3. Hence, the present appeal by the appellant-complainant.

I have heard the learned counsel for the appellant and have gone through the record available on the file carefully.

Prosecution story, in brief, was that Dharmender alias Jaivir husband of the complainant, was falsely involved in a rape case by respondents No. 2 and 3 in connivance with other persons. Thereafter, they demanded ₹ 2-3 lacs from the husband of the complainant to effect a compromise. Due to this harassment, husband of the complainant committed suicide on 9.9.2012.

Trial Court while ordering the acquittal of respondents No. 2 and 3 has held that the husband of the complainant had committed suicide on 9.9.2012 whereas the suicide note in

question was handed over to the police on 23.10.2012. There was no explanation qua the said delay. The said suicide note was allegedly recovered from the clothes of the deceased, he was wearing at the time of occurrence. Moreover, as per the suicide note, the deceased was having illicit relations with the mother of Meenakshi. It has been noticed by the Trial Court that the complainant in her cross-examination had stated that when she saw the body of her husband on the next day at home, nothing was recovered by the police from her. She handed over documents Ex. PB and Ex. PB/1 to Ex. PB/6 to the police on 5.11.2012. The documents, which were recovered from the possession of the deceased, had been handed over to the brother of the deceased and were not taken in possession by the investigating officer. The documents were sent for comparison on 12.12.2012 after more than one month of their recovery. Further, no attempt was made by the investigating officer to establish that the pages Ex. PB and PB/1 to Ex. PB/6 belonged to the deceased. The said documents were undated. Moreover, in the present case, the deceased had committed suicide by jumping before the train on 9.9.2012 whereas the complaint was made on 23.10.2012.

Learned counsel for the appellant has failed to point out any misreading of evidence by the Trial Court which would warrant interference by this Court. The reasons given by the Trial Court while ordering the acquittal of respondents No. 2 and 3, are sound reasons and call for no interference.

Their lordships of the Supreme Court in **Allarakhia K. Mansuri v. State of Gujarat, 2002(1) RCR (Criminal) 748**, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

A Division Bench of this Court in **State of Punjab v. Hansa Singh, 2001 (1) RCR (Criminal) 775**, while dealing with an appeal against acquittal, has opined as under:

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in *Ashok Kumar v. State of Rajasthan*, 1991(1) SCC 166, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.”

To the same effect is the ratio of the judgments of the Supreme Court in **State of Goa v. Sanjay Thakran (2007) 3 SCC 755** and in **Chandrappa v. State of Karnataka, (2007) 4 SCC 415**.

Similarly, in **Mrinal Das & others v. The State of Tripura, 2011 (9) Supreme Court Cases 479**, the Supreme Court, after looking into various judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

“8) It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to re-appreciate, reconsider and review the evidence and take its own decision. In other

words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are “compelling and substantial reasons”, for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed”

No ground for interference is made out.

Accordingly, this appeal is dismissed.

**(SABINA)
JUDGE**

**January 19, 2015
Gurpreet**