

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

CRA-S-3739-SB-2013

Decided on: 13.02.2015

Harinder SinghAppellant

versus

State of Punjab and othersRespondents

CORAM HON'BLE MRS. JUSTICE SABINA

Present Mr. A.K.Walia, Advocate for the appellant.

SABINA, J

Respondents no.2 to 6 had faced the trial in FIR No.16 dated 21.01.2000. Trial Court vide order dated 10.07.2013 ordered the acquittal of respondents no.2 to 6. Hence, the present appeal by the complainant.

Prosecution story in brief was that on 29.09.1999, complainant Harinder Singh was cultivating his land. At about 03:00 p.m respondents no.2,4 and 6 came to the spot and started abusing the complainant and left towards village Tajpur. However, respondents no.2,4 and 6 returned after 10 minutes along with respondents no.3 and 5 and forcibly took away the tractor of the complainant after giving beatings to him. Complainant was rescued by Charanjit Singh and Surinder Singh.

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

The case was investigated by the police and cancellation report was submitted. However, the cancellation report was not accepted by the Magistrate and re-investigation of the case was ordered. After completion of investigation and necessary formalities, challan was presented against the accused. The trial Court while ordering the acquittal of respondents no.2 to 6 has held that there was no medical evidence on record to establish the injuries suffered by the complainant. Further it has been noticed by the trial Court that as per the photographs brought on record by the accused, complainant was seen standing with his tractor in the paddy crops. The

recovery memo revealed that the tractor was recovered from the land of Anwar Ali. Learned trial Court has further observed that as per the inquiry report Ex.DB brought on record, complainant party had entered the paddy fields of the accused party with the tractor. Further, the complainant while appearing in the witness box had failed to depose qua the damage to his tractor at the hands of the accused. It has further been noticed by the trial Court that the eye witness examined by the complainant also did not depose qua the damage to the tractor.

So far as Sharanjit Singh witness is concerned, the said witness had deposed qua the damage to the tractor but the trial Court has noticed that the said witness was inimical towards the accused due to pendency of litigation between them. Thus, reasons given by the trial Court while ordering the acquittal of respondents no.2 to 6 are sound reasons.

Their lordships of the Supreme Court in **Allarakha 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”

Hence, no ground for interference is made out.

Dismissed.

13.02.2015
mamta

(SABINA)
JUDGE