

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. A-1007-MA of 2012
Date of Decision: 12.01.2015.

Lal Singh

.....Applicant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Karan Bhardwaj, Advocate
for the applicant.

SABINA, J.

Respondents No. 2 to 4 had faced trial in a complaint filed by applicant Lal Singh under Section 3(1) (x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 452, 323, 506 of the Indian Penal Code, 1860. Trial Court vide order dated 14.12.2011 ordered the acquittal of respondents No. 2 to 4. Hence, the present application under Section 378(4) of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) praying for leave to appeal by the applicant.

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

Case of the applicant was that on 6.1.20008, he was re-constructing the damaged outer wall of his house. Respondents No. 2 to 4 reached the spot and caught hold of him from his hair and dragged him out of the house and slapped him and his daughter Jaswinder Kaur. Respondents No. 2 and 3 abused him in the name of his caste. The occurrence was witnessed by Nasibo

and many other persons.

Although, applicant during trial deposed as per the contents of the complaint, however, PW-2 Harcharan Singh, PW-3 Guddu, PW-4 Nirmal Singh and PW-5 Nasibo did not support the prosecution case during trial. Jaswinder Kaur-daughter of the complainant was not examined during trial. In the facts and circumstances of the present case, the learned Trial Court had rightly ordered the acquittal of respondents No. 2 to 4 as the version of the applicant was not corroborated by the other witnesses who had allegedly witnessed the occurrence nor the daughter of the applicant had appeared in support of the applicant during trial.

Learned counsel for the applicant 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 to 4, 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 is made out to grant leave to file an appeal.

Accordingly, this application is dismissed.

**(SABINA)
JUDGE**

**January 12, 2015
Gurpreet**