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

CRM-A-737-MA of 2013

Date of decision: January 27, 2015

Paramjit Kaur

.....Applicant

Versus

Gamdoor Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.S. Sidhu, Advocate
for applicant.

Mr. Surinder Garg, Advocate
for respondents.

SABINA, J

Respondents had faced trial in a complaint filed by the applicant under Sections 341, 500, 506 read with 34 of Indian Penal Code, 1860 ('IPC' for short).

Case of the complainant in brief was that she was working as a supervisor in Child Development and Project Office, Abohar. Husband of the complainant had given possession of his land to accused Sukhpal Kaur, Jagtar Singh, Swarnjit Kaur @ Babbu and Kulwinder Kaur @ Rani on share basis. However, the said accused were not properly cultivating the land and the land was got redeemed. Due to this reason, accused started harassing the complainant. On 24.12.2007, accused-Jagtar Singh, Sukhpal Singh, Kulwinder Kaur and Harleen Kaur had illegally restrained the complainant and abused her. Complainant moved an application to the police in this regard, but no action was

taken. Accused Sukhpal Kaur had moved an application dated 31.12.2007 against the complainant to the police by levelling false and defamatory allegations against her. After enquiry, the said allegations levelled in the application, were found to be false. Hence, the compliant in question has been filed.

Trial Court vide judgment dated 31.07.2013 ordered the acquittal of respondents No.1 to 13, whereas Sukhpal Kaur was convicted qua commission of offence punishable under Section 500 IPC. Hence, the present application by the complainant-applicant under Section 378(4) of Code of Criminal Procedure, 1973 for grant of leave to appeal.

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

Trial Court while disbelieving the statement of CW1-Assistant Sub Inspector Makhan Singh qua respondents, has held as under:-

“16. However, despite this, CW1 has orally deposed that, all accused were joined during enquiry proceedings and that, their sign and thumb impressions were verified by him. Said part of testimony of CW1 is unbelievable and is hereby discarded; because, had it actually been so, Makhan Singh (CW1) was duty bound to get sign/thumb impression of all accused while recording their statements. However, he (CW1) has concluded his enquiry while merely recording statements of complainant, accused No.1 and of one Ranjit Singh. Meaning thereby that, other accused were not joined and as such, their liability is not established.”

The reasons given by the trial Court while ordering the acquittal of respondents, are sound reasons and call for

no interference.

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 is made out to grant leave to file an appeal. Accordingly, this application is dismissed.

**(SABINA)
JUDGE**

January 27, 2015
m.singh