

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

CRM-A-1467-MA of 2015 (O&M)

Date of decision: 05.12.2015

State of Haryana

...Applicant

Versus

Trilok Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Yashwinder Singh, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed the judgment dated 25.05.2015, passed by the Addl. Sessions Judge, Kurukshetra, whereby the accused have been acquitted of the charges framed against them under Sections 392, 328 and 411 of the Indian Penal Code (for short 'IPC').

Learned counsel for the applicant-State contends that the learned trial Court acquitted the accused without appreciating the fact that the robbed items were recovered on the basis of disclosure statements of the respondents which was duly corroborated by the prosecution witnesses. There was no previous enmity of the complainant, Darshan Singh, with the respondents. The learned trial

Court has not taken into consideration the FSL report, which clearly shows that the victim Om Pal, employed as driver on the truck of the complainant, was sedated at the time of alleged occurrence and 'dimethocaine' was detected in his stomach wash and blood. However, the trial Court has not taken into consideration the factual aspect of the matter.

Heard.

The learned trial Court has recorded that a lot of doubt exists in the mind of the Court regarding the alleged incident and regarding the genuineness of the version of the applicant. The alleged incident had taken place on 07.11.2014, whereas the complaint was filed on 08.11.2014. Admittedly, Kewal Singh, owner of the transport company had received information regarding the incident and immediately called the applicant. As per the version of the applicant, he came to know about the incident at 4.00 am on 07.11.2014 and he along with Kewal Singh reached Dhand Road, Kurukshetra at 7.00 am, however the matter was not reported to the police for the reasons best known to them. As per the testimony of Kewal Singh, some unknown person had called and told him about the incident. It is highly improbable that before 4.00 am, some unknown person had seen the driver of the truck in an unconscious condition and he called Kewal Singh, owner only and not the police. The said Kewal Singh, a key witness was given up by the prosecution being unnecessary. As per the

testimony of PW-3, Dr. AC Nagpal, the patient Om Pal was examined at 4.00 pm in the hospital on 07.11.2014 by Kewal Singh with alleged history that he was made to consume some sedative. The whereabouts of said Om Pal from 7 am till 4 pm on 07.11.2014 and that who had called Kewal Singh regarding the above incident remains a mystery. In the absence of any strong evidence, it is highly improbable that said Om Pal either was given sedative or robbed by the respondents.

In these circumstances, the finding of acquittal recorded by the trial Court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting the accused/respondents. It is a settled law as has been held in C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the leave to appeal stands declined.

Dismissed.

05.12.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE