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

CRM-A-1876-MA of 2014

Date of decision: January 22, 2015

Shekhar Gupta

.....Applicant

Versus

Tarloki Nath and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.S. Panag, Advocate
for applicant.

SABINA, J

Respondents had faced trial in a complaint filed by the applicant under Sections 452, 506 of Indian Penal Code, 1860.

The case of the complainant in brief was that he was a practising advocate in the Courts at Ludhiana. Father of the applicant had expired on 25.06.2004. In fact, father of the applicant had performed two marriages. Complainant was born out of the first wedlock of his father. After divorcing the mother of the applicant, father of the applicant had performed a second marriage and out of the said wedlock Shaiwal Gupta was born. Respondents were real brothers and their father Chaman Lal Sachdeva was manager of School namely Sanathan Vidya Mandir, Civil Lines, Ludhiana. Applicant as well as respondents were members of the managing committee of the said school. Respondents alongwith their father in connivance with step-mother and step-brother of the applicant, had forged the signatures of the applicant's father

and withdrew huge amount from the bank account by presenting eight cheques. They also tried to withdraw money from the school account by forging the signatures of the father of the applicant. FIR was registered against the step-father of the respondents as well as step-mother and brother of the applicant. On 01.08.2005 at about 5:00 PM, respondents entered the chamber of the applicant in a drunken condition and started abusing the complainant. At that time, Gurmukh Singh and Surinder Pal Singh Moudgill, Advocates were present in the Chamber of the applicant. Respondent No.1 picked up a chair and respondent No.2 picked up a wooden bench and tried to hit the applicant. With the intervention of other advocates, applicant was saved. Applicant approached the police by moving a complaint, but no action was taken on the same.

Vide order dated 12.08.2014, trial Court ordered the acquittal of the respondents. Hence, the present application under Section 378(4) of Code of Criminal Procedure, 1973 for grant of leave to appeal by the complainant.

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

Trial Court while ordering the acquittal of the respondents has held that no written complaint moved by the applicant before the police was proved on record. Trial Court rightly held that applicant who was himself an advocate, was expected to move a written complaint to the police qua

occurrence in question. Moreover, applicant had not suffered any injury in the alleged occurrence. Applicant had admitted in his cross-examination that he was having cordial relations with the respondents.

In these circumstances, learned trial Court rightly came to the conclusion that no offence as alleged, could be said to have been committed by the respondents. The reasons given by the trial Court while ordering the acquittal of the 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.

January 22, 2015
m.singh

(SABINA)
JUDGE