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

CRM-A-537-MA of 2014

Date of decision: February 05, 2015

Sukhchain Singh

.....Applicant

Versus

Darshan Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Dinesh Kumar, Advocate
for the applicant.

Mr. G.S. Punia, Senior Advocate with
Ms. Mandeep Kaur Kahlon, Advocate
for the respondents.

SABINA, J

Respondents had faced trial in a compliant filed by Surjit Kaur (since deceased) under Sections 148, 323/ 149 of Indian Penal Code, 1860 ('IPC' for short). Trial Court vide judgment/order dated 14.07.2012 ordered the conviction and sentence of the respondents qua commission of offence punishable under Sections 148, 323/149 IPC. In appeal filed by the respondents, the Appellate Court vide order dated 10.12.2013 ordered the acquittal of the respondents of the charges framed against them. 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 as well as respondents and have gone through the record available on the file carefully.

Case of the complainant in brief was that Sukhchain Singh and Manjit Singh sons of the complainant were co-owners of the land situated at village Salani alongwith respondents and for the purposes of cultivation, joint land had been privately partitioned by the co-owners. Sons of the complainant filed a civil suit for permanent injunction restraining the respondents from forcibly entering the suit land. On 27.05.2004, all the accused armed with weapons forcibly entered the land of the complainant. Respondents had also brought a Tractor with them. Complainant alongwith her son-Manjit Singh went to the spot and tried to resist the action of the respondents to take forcible possession of the suit land. However, Balwant Singh drove the Tractor over the standing crop and destroyed the same. Complainant raised hue and cry. Then, Nachhattar Singh caught hold of the complainant and tore her clothes and threatened her that he would kill her in case, she created a hurdle in their plan to take possession of the suit land. Manjit Singh came forward to rescue the complainant. Harbans Singh caught hold of Manjit Singh and gave slaps to him. Raghubinder Singh gave a blow with a *gandasi* on the person of the complainant.

During pre-charge evidence, complainant-Surjit Singh died and Sukhchain Singh was brought on record as her legal representative. Sukhchain Singh, however, did not appear in the witness-box. Manjit Singh son of the complainant appeared in the witness-box as CW4 and complainant examined CW1-Bahadur Singh in support of their case.

The Appellate Court while ordering the acquittal of respondent has held that so far as statement of CW4-Manjit Singh was concerned, the same failed to inspire confidence as no medical evidence qua the injuries suffered by the complainant side had been proved on record. Moreover, as per CW4, the occurrence had taken place on 28.05.2004, whereas, in the complaint, it had been mentioned that the occurrence had taken place on 27.05.2004. CW4 also admitted in his cross-examination that his mother had not filed any application in the Police Station Amloh qua the occurrence. He also admitted that he had also not filed any application before the Police Station Amloh qua the occurrence.

So far as CW1-Bahadur Singh is concerned, his statement was also not believed by the Appellate Court on the ground that the said witness was residing at a distance of about 200-250 meters from the place of occurrence. He also admitted that the property was jointly owned and possessed by Amar Singh, Isher Singh and Mohinder Singh. He also admitted that he had not narrated the incident to any person.

It was further noticed by the Appellate Court that the civil litigation pending between the parties, was withdrawn by the complainant. Learned counsel for the applicant has failed to point out any misreading of evidence by the Appellate Court, which would warrant interference by this Court.

The reasons given by the Appellate Court while ordering the acquittal of the respondents of the charges framed against them, 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**

February 05, 2015

m.singh