

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

CRM-A-892-MA of 2015 (O&M)

Date of decision: 10.12.2015

Lal Singh

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: None for the applicant.

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 05.06.2014, passed by the Judicial Magistrate 1st Class, Faridabad, whereby the accused have been acquitted.

None causes representation on behalf of the applicant.

Record perused.

The precise allegations levelled by the applicant in his complaint is that on 20.09.2006, respondent No.2 illegally trespassed into his house and gave severe beatings to him, his wife and his brother. The applicant runs his own tea stall. When he returned back to his house at about 11 pm, the accused/respondent No. 2 in an

inebriated condition started abusing him and when the applicant objected to it, he threatened him to teach him a lesson. However, during his pre-charge evidence, he deposed that respondent/accused No.2 and one Dr. Bengali were sitting on the door of house and on seeing him, they started giving beatings to him and when his wife and brother came to rescue, they also gave beatings to them. The applicant during his cross examination was unable to give satisfactory answer regarding the questions put forth by the defence counsel. He even failed to tell as to how much time he took in going to his shop from his house. CW-2 Shakuntla, wife of the applicant had stated in her cross examination that CW-3, Raj Kumar resides along with them in their house, whereas, as per testimony of CW-3, he had stated that he does not reside along with his brother and resides along with his family in a separate house at Nehru Colony. Thus, the trial Court has rightly noticed that there were material discrepancies in the statements of witnesses, which creates dent in the allegations levelled by the applicant.

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 cases of acquittal, there is double presumption in favour of the accused; 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.

10.12.2015

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(JITENDRA CHAUHAN)
JUDGE