

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 823 of 2007
Date of decision: 01.9.2015

Kulwant Singh alias Kanti

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.P.Dhir, Advocate
for the petitioner.

Mr. A.S.Sidhu, AAG, Punjab.

SABINA, J.

Respondents No. 2 to 4 had faced trial under Section 324, 323, 452, 34 of the Indian Penal Code, 1860 in FIR No. 198 dated 13.11.2002, registered at Police Station Mahilpur, Hoshiarpur.

Prosecution story, in brief, was that on 12.11.2002, at about 7.15 P.M., complainant Kulwant Singh along with his wife Surinder Kaur were present in their house. Respondents No. 2 to 4 along with 8/9 other unidentified persons entered their house. Gurbachan Singh said that the complainant be not allowed to escape. In the meantime, Tind gave a *daat* blow on the forehead of the complainant on the left side whereas Laddi gave a *dang* blow on the left shoulder of the complainant. The unknown persons who were accompanying respondents No. 2 to 4 also inflicted injuries on

the person of the complainant. Complainant raised alarm. The accused also inflicted injuries on the person of Surinder Kaur.

After completion of investigation and necessary formalities, challan was presented against respondents No. 2 to 4.

Trial Court vide the impugned order dated 5.4.2006 ordered the acquittal of respondents No. 2 to 4 of the charges framed against them. Hence, the present petition by the complainant.

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

The occurrence had taken place on 12.11.2002. In the present case, there was land dispute between the complainant and the accused qua ancestral property. Complainant is the real brother of respondent Gurbachan Singh.

PW-1 Dr. Des Raj, who had medico legally examined the injured, had stated that on 12.11.2002 he had medico-legally examined Surinder Kaur and had found following injuries on her person:-

“1. Reddish contusion of size 3x3 cm on posterior aspect of left forearm, upper and extending to elbow joint. Movement at elbow joint restricted. Advised X-ray.”

He has further stated that on the same day, he had medico-legally examined Kulwant Singh and had found following injuries on his person:-

“1. An incised wound with clear margins measuring 3 x 0.5 cm x bone deep. Fresh bleeding was present.

Placed on left side of forehead, obliquely placed upper end touching midline, 3 cm below frontal hair. Adv. X-ray.

2. *A reddish contusion 3 cm x 3 cm placed on lateral aspect on upper end of right arm. Tenderness present. Adv. X-ray.*
3. *Complained of pain. Left gluteal region. Adv. X-ray.*
4. *Reddish swelling and tenderness present on phalanx on proximal inter pharyngeal joint of index, middle and ring finger of left hand. Adv. x-ray."*

From the medical evidence, it is evident that the injured had suffered simple injuries. The doctor had opined that injury No. 1 on the person of Surinder Kaur and injury No. 2 and 4 on the person of Kulwant Singh could be a result of fall. Injury No. 1 on the person of Kulwant Singh was also stated to be superficial in nature. So far as injury No. 3 on the person of Kulwant Singh is concerned, the same relates to complaint of pain.

Keeping in view the nature of injuries and the fact that there was a land dispute between the complainant and the accused party, in the facts and circumstances of the present case, the learned Trial Court rightly ordered the acquittal of respondents No. 2 to 4.

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”

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

September 01, 2015

Gurpreet