

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

**CRR No. 3689 of 2012 (O&M)
Date of Decision: 28.9.2015**

Ram Narain

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Viney Saini, Advocate
for the petitioner.

Mr. M.K.Sangwan, DAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO

RAMESHWAR SINGH MALIK J.

Instant criminal revision petition is directed against the impugned judgment dated 24.8.2012 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby accused-respondent No.2-Pala Ram was acquitted of the charges framed against him and his conviction was set aside.

Briefly put, facts of the case, as noticed by the learned Additional Sessions Judge, in para 2 of its impugned judgment, are that on 2.9.2002 a wireless message was received that Ram Narayan was admitted in Civil Hospital, Jagadhri in an assault case. After obtaining ruqqa, HC Rishi Pal reached there, where the doctor

disclosed that the injured Ram Narayan had been referred to PGI, Chandigarh. On 3.9.2009, an information was received that injured Ram Narayan was admitted in Civil Hospital, Jagadhri. Thereafter, HC Rishi Pal and C. Jaspal reached there and recorded the statement of Ram Narayan wherein he stated that he was resident of village Musimbal and was an agriculturist. They were two brothers and both of them were residing separately. His father had expired 10-12 years back, who owned Rs. 10 lacs. After the death of his father, he had paid the amount which fell in his share by selling two kanals of land and Sandeep still owed the amount outstanding against him in lieu of which his land was mortgaged with Ami Chand. His brother Sandeep had obtained a stay order against Ami Chand. Later, the stay order had been vacated and Ami Chand was in possession of the land. Sandeep was under the belief that Amit Chand was ploughing the land on his directions. Due to this, he had grudge against him. Their uncle Pala Ram also favoured Sandeep. On 2.9.02 at 7/7:30 P.M., he had gone to the shop of Pappu in the village. On the way, he met Sandeep and Pala Ram who got annoyed on seeing him and started abusing him. Till he could say something, Pala Ram caught hold of him and Sandeep, who was holding a knife, attacked him on his right side of the underarm. He said that he will be taught a lesson for taking the possession of the land. He raised alarm. Several people of the village gathered there. Jagmal and Sanjeev came to his rescue. The accused ran away from the spot after giving him injuries. On 2.9.2009, when he was admitted in Civil Hospital, Jagahdari, he was referred to PGI, Chandigarh, from where

he was again referred to Civil Hospital, Jagadhri. A prayer to take appropriate action against the accused was made.

On the basis of abovesaid statement, a formal FIR was registered. Investigation of the case was conducted. Site plan was prepared by the investigation officer. Accused were arrested. After completion of investigation, challan under Section 173 of the Code of Criminal Procedure ('Cr.P.C' for short), was prepared and presented before the Court.

Challan having been presented, copy thereof alongwith documents attached therewith, was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case, charge under Sections 323/324/326 read with Section 34 of the Indian Penal Code ('IPC' for short) was framed against the accused to which, they pleaded not guilty and claimed trial. With a view to prove its case, prosecution examined as many as 9 PWs, besides producing other relevant documentary evidence.

On conclusion of the prosecution evidence, statements of accused were recorded under Section 313 Cr.P.C. All the incriminating material brought on record was put to the accused. They denied all the allegations, alleged false implication and pleaded complete innocence. Accused opted to lead defence evidence and examined only one witness in their defence.

After hearing learned counsel for both the parties and going through the evidence brought on record, learned trial court came to the conclusion that prosecution has proved its case, bringing home guilt against the accused persons. Consequently,

both the accused were held guilty for the commission of offences under Sections 323/324/326 read with Section 34 IPC, vide judgment dated 26.11.2010. Convicts were awarded the following sentences, vide order of sentence dated 27.11.2010:-

Name of convict	Offence	Imprisonment	Fine	Sentence in default of payment of fine
Sandeep Kumar & Pala Ram	323/34 IPC	3 months RI, each	--	--
	324/34 IPC	6 months RI, each	--	--
	326/34 IPC	One year, RI each	Rs. 250/-	--

Feeling aggrieved, convicts filed their appeal. Appeal of accused Pala Ram was accepted and he was acquitted of the charges framed against him, whereas appeal of accused-Sandeep Kumar was partly allowed, thereby acquitting him qua offences under Sections 323/324 IPC and holding him guilty only qua offence under Section 326 IPC. Hence this criminal revision petition against the acquittal of Pala Ram.

Learned counsel for the petitioner submits that learned trial court has proceeded on a factually correct and legally justified approach, while passing the well reasoned judgment of conviction. However, the learned appellate court fell in a serious error of law, while acquitting the accused-Pala Ram. He further submits that there was no reason much less cogent reasons with the learned appellate court to reverse the well reasoned judgment passed by the learned trial court, thereby acquitting accused-Pala Ram. He prays for setting aside the impugned judgment passed by learned Additional Sessions Judge qua acquittal of accused-Pala Ram, by

allowing the present petition.

On the other hand, learned counsel for the State submits that the learned court below has not committed any illegality, while passing the impugned judgment. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, present one is not a fit case warranting interference at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one. To say so, reasons are more than one, which are being recorded hereinafter.

A bare reading of the impugned judgment would show that learned appellate court has considered each and every relevant aspect of the matter, before arriving at a judicious conclusion. Learned Additional Sessions Judge has recorded cogent and convincing reasons before acquitting Pala Ram. The learned Additional Sessions Judge, in para 24 of the impugned judgment, has specifically given reasons for acquitting respondent No.2 that the complainant falsely implicated Pala Ram, because Pala Ram was intervening between the complainant and Sandeep to get the dispute amicably settled.

Moreover, Pala Ram-respondent was father-in-law of sister of complainant as well as Sandeep and he had no motive to commit

the offence alleged against him. Having said that, this Court feels no hesitation to conclude that learned Additional Sessions Judge committed no error of law, while passing the impugned judgment of acquittal.

It is the settled proposition of law that whenever two views are possible, the view which goes in favour of the acquittal is to be adopted by the courts, as held by the Hon'ble Supreme Court in ***Arulvelu & anr. vs.State represented by the Public Prosecutor and anr. 2009(4) RCR (Crl.) 638.*** The law laid down by the Hon'ble Supreme Court in the case of Arulvelu (supra), has been further reiterated by the Hon'ble Supreme Court in its numerous later judgments, including in the cases of ***Rathinam @ Rahinan Vs. State of Tamil Nadu, 2011 (11) SCC 140, Sunil Kumar Sambhudayal Gupta and others Vs. State of Maharashtra, 2010 (13) SCC 657 and Upendra Pradhan Vs. State of Orissa (Criminal Appeal No. 2174 of 2009 decided on 28.4.2015).***

The relevant observations made by the Hon'ble Supreme Court in para 10 and 11 of its judgment in ***Upendra Pradhan's case*** (supra), which can be gainfully followed in the present case, read as under:-

“Taking the First question for consideration, we are of the view that in case there are two views which can be culled out from the perusal of evidence and application of law, the view which favours the accused should be taken. It has been recognized as a human right by this Court. In Narendra Singh and Another v. State of M.P.,

(2004) 10 SCC 699, this Court has recognized presumption of innocence as a human right and has gone on to say that:

“30. It is now well settled that benefit of doubt belonged to the accused. It is further trite that suspicion, however grave may be, cannot take place of a proof. It is equally well settled that there is a long distance between ‘may be’ and ‘must be’.

31. It is also well known that even in a case where a plea of alibi is raised, the burden of proof remains on the prosecution. Presumption of innocence is a human right. Such presumption gets stronger when a judgment of acquittal is passed. This Court in a number of decisions has set out the legal principle for reversing the judgment of acquittal by a Higher Court (see Dhanna v. State of M.P., Mahabir Singh v. State of Haryana and Shailendra Pratap v. State of U.P.) which had not been adhered to by the High Court.

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33. We, thus, having regard to the post-mortem report, are of the opinion that the cause of death of Bimla Bai although is shrouded in mystery but benefit thereof must go to the appellants as in the event of there being two possible views, the one supporting the accused should be upheld.”

(Emphasis Supplied)

11. The decision taken by this Court in the aforementioned case, has been further reiterated in State of Rajasthan v. Raja Ram, (2003) 8 SCC 180, wherein this Court observed thus:

“Generally the order of acquittal shall not be

interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate court to reappreciate the evidence in a case where the accused has been acquitted, or the purpose of ascertaining as to whether any of the accused committed any offence or not. (see Bhagwan Singh v. State of M.P.) The principle to be followed by the appellate court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable, it is a compelling reason for interference.” (Emphasis

Supplied)

Therefore, the argument of the learned counsel for the appellant that the High Court has erred in reversing the acquittal of accused appellant, stands good. The Additional Sessions Judge was right in granting him benefit of doubt. The view which favours the accused/appellant has to be Page 16 16 considered and we discard the opposite view which indicates his guilt. We are also of the view that the High Court should not have interfered with the decision taken by the Additional Session Judge, as the judgment passed was not manifestly illegal, perverse, and did not cause miscarriage of justice. On the scope of High Court's revisional jurisdiction, this Court has held in Bindeshwari Prasad Singh v. State of Bihar, (2002) 6 SCC 650, "that in absence of any manifest illegality, perversity and miscarriage of justice, High Court would not be justified interfering with the concurrent finding of acquittal of the accused merely because on re-appreciation of evidence it found the testimony of PWs to be reliable whereas the trial Court had taken an opposite view." This happens to be the situation in the matter before us and we are of the view that the High Court was wrong in

interfering with the order of acquittal of Upendra Pradhan passed by the Additional Sessions Judge.”

During the course of arguments, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality in the impugned judgment passed by the learned court below, so as to convince this Court to take a different view than the one taken by the learned appellate court. In such a situation, no interference is warranted at the hands of this Court and the impugned judgment deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present criminal revision petition stands dismissed, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

28.9.2015
Ak Sharma