

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2927-2013 (O&M)
Date of decision: 29.10.2015

Tirlok Chand

... Petitioner

Vs.

State of Haryana and ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Tewatia, Advocate
for the petitioner.

Mr. Pardeep Sharma, AAG, Haryana.

Mr. Sarfraj Hussain, Advocate
for respondents No.2 to 6.

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
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Present criminal revision petition, at the hands of complainant, is directed against the impugned judgment dated 25.01.2013 passed by the learned Additional Sessions Judge, Nuh, whereby accused-respondents were acquitted of the charges against them.

Brief facts of the case, as recorded by learned trial Court in para 1 of the impugned judgment, are that on 06.01.2011, complainant Tirlok Chand moved an application to the police stating therein that he was Sarpanch of Village Nangal Mubarikpur. Ayub, Hanif, Nasru, Fajru, Asina all resident

of Village Nangal Mubarikpur call him Chamaar Dehd among the people of the village. When he raises objection, they extend their threat by saying that “CHAMAAR DEHD TU HAMARE SAMANE KURSI PAR BETHTA HAI, TUMARA KAAM HAI JUTI GATHANE KA”. Besides abusing him by his caste, they tried to beat him. A request was made to take necessary legal action against them. On the basis of statement of the complainant, the case was registered. Investigating proceedings were initiated. During investigation, accused were arrested, statement of the witnesses under Section 161 of the Code of Criminal Procedure ('Cr.P.C.' for short) was recorded. After completion of investigation, challan was presented in the Court.

The challan having been presented against the accused, copy thereof along with documents attached therewith, was supplied to the accused. The accused were charge-sheeted for the offence under Section 3/33 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 and Section 506 of the Indian Penal Code ('IPC' for short). Accused pleaded not guilty and claimed trial. In order to prove its case, prosecution examined as many as 06 PWs, besides producing on record other relevant documentary evidence.

After hearing learned counsel for both the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the prosecution has failed to bring home the guilt against the accused. Accordingly, they were acquitted of the charges framed against them.

Learned counsel for the petitioner submits that the complainant brought cogent and convincing evidence on record, which was sufficient to

record conviction of the accused persons. However, since the learned trial Court has failed to appreciate the evidence in correct perspective, the impugned judgment has resulted in miscarriage of justice. He prays for setting aside the impugned judgment, by allowing the present criminal revision petition.

On the other hand, learned counsel for the accused submits that the learned trial Court committed no serious error of law, while passing the impugned judgment. There was no cogent and convincing evidence which could have been said to be sufficient to record the conviction of the accused. This was the reason that the learned trial Court has rightly passed the judgment of acquittal. He prays for dismissal of the present criminal revision petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the peculiar facts and circumstances of the case, noticed hereinabove, instant one has not been found to be 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 the learned trial Court has discussed, considered and appreciated each and every relevant aspect of the matter, before arriving at its judicious conclusion. Oral as well as documentary evidence was appreciated in the correct perspective. Having said that, this Court feels no hesitation to conclude that the learned

trial Court has committed no error of law, while passing the impugned judgment of acquittal and the same deserves to be upheld.

It is the settled principle of law that wherever two views are possible, the view which goes in favour of the acquittal, deserves to be adopted by the Courts. It is not even the argued case on behalf of the petitioner that the view taken by the learned trial Court was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgment of acquittal does not suffer from any illegality and the same deserves to be upheld, for this reason also.

The view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court in the case of **Arulvelu & anr. vs. State represented by the Public Prosecutor and anr. 2009(4) RCR (Cr1) 638**. The relevant observations made by the Hon'ble Supreme Court in para Nos.39, 40 and 41 in the case of **Arulvelu** (supra) read as under:

“In Ghurey Lal v. State of Uttar Pradesh (2008) 10 SCC 450, a two Judge Bench of this Court of which one of us (Bhandari, J.) was a member had an occasion to deal with most of the cases referred in this judgment. This Court provided guidelines for the Appellate Court in dealing with the cases in which the trial courts have acquitted the accused. The following principles emerge from the cases above:

- 1. The accused is presumed to be innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.*

2. The power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law, but the Appellate Court must give due weight and consideration to the decision of the trial court.

3. The appellate court should always keep in mind that the trial court had the distinct advantage of watching the demeanour of the witnesses. The trial court is in a better position to evaluate the credibility of the witnesses.

4. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

5. If two reasonable or possible views can be reached - one that leads to acquittal, the other to conviction - the High Courts/appellate courts must rule in favour of the accused.

40. This Court in a recently delivered judgment State of Rajasthan v. Naresh @ Ram Naresh 2009 (11) SCALE 699 again examined judgments of this Court and laid down that "An order of acquittal should not be lightly interfered with even if the court believes that there is some evidence pointing out the finger towards the accused. This Court has dealt with the scope of interference with an order of acquittal in a number of

cases."

41. Careful scrutiny of all these judgments lead to the definite conclusion that the appellate court should be very slow in setting aside a judgment of acquittal particularly in a case where two views are possible. The trial court judgment can not be set aside because the appellate court's view is more probable. The appellate court would not be justified in setting aside the trial court judgment unless it arrives at a clear finding on marshalling the entire evidence on record that the judgment of the trial court is either perverse or wholly unsustainable in law."

The law laid down by the Hon'ble Supreme Court in **Arulvelu's** case (supra) has also been followed by a Division Bench of this Court in the case of **State of Haryana v. Aman Kumar and another 2012 (3) RCR (Crl.) 330** and judgment dated 2.11.2012 passed by this Court in **CRM-A-284-MA-2011 (Baljeet Singh v. State of Punjab and others)**.

Reverting back to the facts of the present case and respectfully following the law laid down by the Hon'ble Supreme Court in **Arulvelu's** case (supra), it is unhesitatingly held that the learned trial Court was well-justified on facts as well as in law, for passing the impugned judgment of acquittal and the same 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 the present 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, instant criminal revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

29.10.2015
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