

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1142-2015 (O&M)
Date of decision: 21.08.2015

Jetha Ram

... Petitioner

Vs.

State of Punjab and ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Naresh Chander, Advocate for
Mr. Kameshwar Ghumber, Advocate
for the petitioner.

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.

Instant criminal revision petition, at the hands of the complainant, is directed against the impugned judgment dated 15.09.2014 passed by learned Additional Sessions Judge, Fazilka, whereby appeal filed by the petitioner against the impugned judgment of acquittal dated 04.09.2012 passed by learned Judicial Magistrate 1st Class, Fazilka, was dismissed, upholding the acquittal of the accused-respondents.

Brief facts of the case, as recorded by the learned Additional Sessions Judge in para 2 of his judgment, are that FIR in question was lodged on the basis of application No.1995 dated 13.09.2007 filed by Jetha Ram son of Sona Ram to the effect that he was an agriculturist by profession. In the year 2003, he had purchased land measuring 34 kanals 07 marlas through registered

sale deed from accused No.7 Bhalwan Singh, whereas the remaining land measuring 05 kanals 07 marlas was purchased through agreement to sell for a sum of Rs.40,000/- and possession was also taken by the complainant. The complainant was owner in possession of this land since the day of its purchase. During the night of 05.08.2007, the complainant had sown Jwar crop in that land. Already, a civil suit was pending qua the land measuring 05 kanals 07 marlas in the Court of S.D.J.M., Fazilka. By ploughing the fields of the complainant, the accused party had caused the loss of Rs.10,000/- to the complainant. That fact came to the knowledge of the complainant, when he went to his fields in order to bring fodder. The complainant followed the marks of Tavis, which led the complainant to the house of accused No.9. The complainant had given information of that occurrence to the Sarpanch of the village. The accused No.9 disclosed that fact that the tractor belonged to accused No.8. The matter was reported at Police Station Khui Khera but no action was taken by the police. The application moved by the complainant was marked to DSP (D), Ferozepur for conducting an inquiry. The inquiry report was submitted by the DSP (D), Ferozepur with the conclusion that sale deed regarding land measuring 34 kanals 07 marlas stood registered in favour of the complainant but regarding land measuring 05 kanals 07 marlas, Bittu son of Darshan Singh had got stay order from the Civil Court against Kashmir Singh etc. Sale deed qua land measuring 05 kanals 07 marlas could not be executed but Balwan Singh and Kashmir Singh had entered into an agreement qua remaining land in favour of the complainant and had received a sum of Rs.40,000/- and possession was handed over to the complainant Jetha Ram qua land measuring 39 kanals 14 marlas. On the basis of said inquiry report, FIR

was registered as against nine accused. After completion of the investigation, challan under Section 173 Cr.P.C. was presented in the Court.

The police report under Section 173 Cr.P.C. having been presented by the investigating agency, copy thereof along with documents attached therewith, was supplied to the accused. A prima facie case was found and accordingly, the accused were charge-sheeted for the offences punishable under Sections 447/427/149 IPC, to which they pleaded not guilty and claimed trial.

In order to prove the charges against the accused, prosecution examined as many as 03 PWs, besides producing on record other relevant documentary evidence. After closing the prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C. All the incriminating material available on record, was put to the accused. They denied the charges levelled against them, alleged false implication and pleaded complete innocence. In defence, accused produced documentary evidence as Ex.D1 & Ex.D2.

After hearing both the learned counsel for the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the prosecution failed to prove its case beyond reasonable shadow of doubt. Accordingly, giving the benefit of doubt, accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 04.09.2012 passed by the learned Judicial Magistrate 1st Class, Fazilka.

Feeling aggrieved, complainant filed his appeal against the abovesaid impugned judgment of acquittal which also came to be dismissed by learned Additional Sessions Judge, Fazilka, vide his judgment dated

15.09.2014. Hence this criminal revision petition, at the hands of the complainant.

Learned counsel for the complainant-petitioner submits that both the learned Courts have misdirected themselves while passing their respective impugned judgments. He further submits that there was cogent and convincing evidence on record, which was sufficient to record conviction of the accused-respondents. However, since both the learned Courts have failed to appreciate the evidence in the correct perspective, the impugned judgments have resulted in miscarriage of justice and the same are liable to be set aside. He prays for setting aside the impugned judgments, by allowing the present criminal revision petition.

Having heard the learned counsel for the petitioner at considerable length, 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 instant one is not a fit case warranting interference at the hands of this Court, while exercising its revisional jurisdiction, for the following more than one reasons.

A combined reading of both the impugned judgments would show that both the learned Courts have recorded their respective cogent findings, before arriving at their judicious conclusions. The documentary as well as oral evidence brought on record, was appreciated in the correct perspective. None of the Courts has been found to have committed any error of law, while passing their respective impugned judgments, because of which the impugned judgments deserve 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 as well as by the learned Additional Sessions Judge was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgments of acquittal do not suffer from any illegality and the same deserve 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 (CrI.) 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 **Arulevlu'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 Courts were well-justified on facts as well as in law, for passing the impugned judgments of acquittal and the same deserve 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.

21.08.2015

[**RAMESHWAR SINGH MALIK**]
JUDGE

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