

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

**CRR-1307 of 2014 (O&M)
Date of decision: 4.12.2015**

Roshan Lal Sharma

... Petitioner

Vs.

State of Punjab and others

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Pankaj Bali, 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.

Present criminal revision petition, at the hands of complainant, is directed against the impugned judgment dated 16.1.2014 passed by learned Additional Sessions Judge, Ludhiana, whereby appeal of the petitioner was dismissed, thereby upholding the impugned judgment of acquittal dated 24.1.2011, passed by learned trial court.

Brief facts of the case, as recorded by learned trial court in para 2 of the impugned judgment, are that Roshan Lal Sharma, Labour Inspector, Jasvir Kaur Steno, Swarn Singh Clerk and Gurdev Kaur, Peon, from Labour Office, Khanna addressed complaint No. 64

dated 23.1.2001 to SDM, Khanna, regarding beating and abusing of the staff. It was submitted that on 23.1.2001 at 2:30 P.M., Harvinder Singh, President Super Mill workers Union, Khanna, gave slap to Roshan Lal Sharma, Labour Inspector, when he was holding his court. Accused-Dharam Pal Angrish, Ram Kewal Yadav, Sudama Ram and other representatives of the union also gave beatings to the staff of the labour office. They also misbehaved with the staff and gave filthy abuses. They also gave beatings to Vinod Arora, representatives of Super Milk Factory. It was requested that legal action may kindly be taken. Copy of the complaint was also addressed to SHO PS City, Khanna.

Thereafter, complainant got his medical examination conducted and presented copy of complaint bearing No. 65 to ASI Ashok Kmar alongwith his MLR. Ruqa was sent to police station with its endorsement. FIR was registered. Site plan was prepared. Statements of witnesses were recorded. During the investigation, accused were arrested and released on bail. On completion of the investigation, challan was presented. Challan having been presented, copy thereof alongwith documents attached therewith, was supplied to the accused under Section 207 of the Code of Criminal Procedure ('Cr.P.C' for short).

Finding a prima facie case to be made out, charges were framed against the accused under Sections 148/186/353/323 read with Section 149 IPC, to which they pleaded not guilty and claimed trial. In order to substantiate its evidence, prosecution examined as many as 10 PWs, besides producing on record other relevant

documentary evidence.

After closing the evidence by the prosecution, statements of the accused were recorded under Section 313 Cr.P.C. The accused denied all the allegations, pleaded false implication and claimed complete innocence. They also examined four defence witnesses, besides producing other documentary evidence.

After hearing 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 bring home the guilt against the accused. Accordingly, the accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 24.1.2011.

Dissatisfied, the impugned judgment of acquittal was challenged by way of appeal which also came to be dismissed by learned Additional Sessions Judge, vide impugned judgment dated 16.1.2014. Hence this criminal revision petition, at the hands of complainant.

Learned counsel for the petitioner submits that the prosecution brought cogent and convincing evidence on record, which was sufficient to record conviction of the accused persons. However, since the learned courts have failed to appreciate the evidence in correct perspective, the impugned judgments have resulted in miscarriage of justice. He prays for setting aside the impugned judgments, by allowing the present criminal petition.

Having heard the learned counsel for the petitioner, 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 combined reading of both the impugned judgments would show that the learned courts have discussed, considered and appreciated each and every relevant aspect of the matter, before arriving at their judicious conclusions. 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 courts have committed no error of law, while passing their respective impugned judgments of acquittal and the same deserve to be upheld.

The learned trial court very rightly held that there were many discrepancies in the case of prosecution. The first and foremost discrepancy noted by the learned trial court was that the Labour Inspector was not competent to hold court, as there was no such notification empowering him to hold the Court. Another discrepancy was that in the charge, name of Ravinder Singh was mentioned who slapped Roshan Lal but in the evidence, witnesses had named Harwinder Singh.

None of the accused was armed with deadly weapons. In the cross examination, prosecution witnesses deposed that it was a

free fight and the incident took place at the spur of moment, meaning thereby neither there was any motive with the respondents to indulge in the activity alleged against them, nor it was pre-planned. In this view of the matter, it is unhesitatingly held that none of the judgments is suffering from any patent illegality and the same 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 also in the 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.

**[RAMESHWAR SINGH MALIK]
JUDGE**

4.12.2015
AK Sharma