

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

**Crl. Revision No. 1519 of 2014  
Date of Decision: 18.8.2015.**

Narender Kumar

.....Petitioner

Vs.

Munni Lal and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. N.S.Shekhawat, Advocate  
for the petitioner.

.....

**SABINA, J.**

Petitioner has filed this petition under Section 401 of the Code of Criminal Procedure, 1973 challenging the order dated 29.10.2010 whereby respondents No. 1 to 10 were ordered to be acquitted of the charges framed against them and order dated 20.2.2014, whereby appeal filed by the petitioner, was dismissed.

Prosecution story, in brief, is that on 2.8.2000, at about 6.00 P.M., accused and the complainant had a verbal fight. On 3.8.2000, at about 9.00 A.M., when the complainant had returned from his fields and was present in front of the house of Suraj Bhan, he was assaulted by respondents No. 1 to 10. Complainant ran towards his house and was chased by the accused. Manoj and Ram Rattan inflicted *kasia* blows on the left hand of the complainant. Sunder gave a blow with a rod on the left leg of the complainant. Thereafter, the other accused gave slaps to the complainant. When the mother and brother of the complainant reached the spot, all the accused fled away from the

spot.

Initially the FIR was registered on the basis of the statement of the complainant. After completion of investigation and necessary formalities, cancellation report was submitted and the same was accepted by the Court. Thereafter, petitioner filed a private complaint. Accused were ordered to be summoned to face the trial. The Trial Court ordered the acquittal of the accused vide order dated 29.10.2010. The said order was upheld by the Appellate Court vide order dated 20.2.2014. Hence, the present petition by the petitioner-complainant.

Learned counsel for the petitioner has submitted that the petitioner had been successful in proving his case. The ocular version was duly corroborated by medical evidence.

The Appellate Court while upholding the acquittal of the accused has noticed that there was enmity between the parties. Parties were residents of the same locality. Petitioner had insulted the daughter of accused Suraj Bhan. Private complaint regarding scuffle between the petitioner and the accused was filed on 23.9.1993. Thus, the parties were in litigation for several years. Learned Appellate Court has further noticed that the occurrence had allegedly taken place on 3.8.2000 at about 9.00 A.M. Although, as per the complainant, he had immediately reached the hospital but a perusal of the medico-legal report revealed that his medical examination was conducted at 5.05 P.M. Thus, there was no explanation qua the said delay. Further the complainant got his x-ray examination conducted at Community Health Centre, Bawal instead of Government Hospital, Rewari which also created a suspicion qua the

genuineness of the complaint submitted by the complainant. The occurrence in question was duly investigated by the police and the allegations levelled against the accused were found to be false and FIR No. 135 dated 1.9.2000 qua the occurrence was cancelled. During investigation it transpired that the FIR had been lodged due to old enmity between the parties. It transpired that in fact, some scuffle had taken place between the parties on 2.8.2000 and no occurrence had taken place as alleged by the complainant on 3.8.2000. So far as occurrence dated 2.8.2000 is concerned, accused Ram Rattan had already filed complaint against the complainant. Hence, it was probable that the complaint in question had been filed by the petitioner to counter the complaint filed by accused Ram Rattan qua the occurrence dated 2.8.2000. Thus, the Appellate Court had rightly dismissed the appeal filed by the petitioner challenging the acquittal of the accused.

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**

**August 18, 2015**

**Gurpreet**