

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1583-2015 (O&M)
Date of decision : 19.10.2015

Manjit Kaur

... Petitioner

Vs.

Arvinder Kaur and anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Tarunveer Vashisht, 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.

CRM-33707-2015

Applicant seeks permission to place on record documents
Annexure P-1 to P-3.

Application is allowed, as prayed for. Documents are permitted to
be placed on record.

CRM stands disposed of.

CRR-1583-2015

Feeling aggrieved against the impugned judgment dated
12.01.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby
appeal of the petitioner was dismissed, upholding the impugned judgment of
acquittal dated 13.12.2012, passed by learned Judicial Magistrate 1st Class,

Ludhiana, complainant-petitioner has approached this Court, by way of instant criminal revision petition.

Brief facts of the case, as recorded by learned Additional Sessions Judge in para 2 of the impugned judgment, are that case was registered at the instance of complainant Manjit Kaur on the basis of her application dated 05.11.2011 for initiating action against Arvinder Kaur wife of Jaswinder Singh and her mother-in-law Manjit Kaur wife of Ranjit Singh stating therein that she wanted to invest some money in a plot and in this regard, aforesaid Arvinder Kaur and Manjit Kaur in order to cheat, told her that a big plot was available in Vishal Nagar at a very reasonable rate and in case she invested in the plot, it would result in profit for her and believing them in August, 1995, she advanced an amount of Rs.5,50,000/- to them but when she checked the documents, the plot was found to be involved in a dispute and asked them to return her money on which they told her that if she did not like the plot, they would return the amount but whenever she demanded the amount advanced, they refused to repay the same on one pretext or the other. Then she was told that they had no money to repay and that they had a plot of 1000 sq. yards in village Daad and they would sell the same to her who against her wishes prepared one agreement in March, 1997, in which rate was mentioned as Rs.2500/- per square yard whereas prevailing rate was only Rs.800/- per square yard, on which she told them that she did not intend to purchase the said plot as the price was very high. On which they insisted that she keep the agreement and that they would return the amount received by them and she should retain the same as receipt of the money advanced. The aforesaid agreement was not signed by her. Thereafter, she

demanding the amount advanced many a times but they refused to return it and in January, 2000, they again demanded Rs.3,00,000/- and assured that they would get the sale deed registered of the plot and said amount of Rs.3,00,000/- was received by them but amount mentioned as Rs.5,50,000/- was changed to Rs.8,50,000/- by cutting/overwriting which cutting was signed by Arvinder Kaur and when on the next day, she went to get the sale deed registered at market rate, accused refused to do so and had not returned the money advanced to her. That accused had cheated her by inducing her to purchase a plot and receiving Rs.8,50,000/- from her and that necessary action be initiated. On the basis of application, investigation was conducted and a case was registered against the accused, whereas on completion of investigation, charge-sheet was filed.

The challan having been presented, copy thereof along with documents attached therewith, was supplied to the accused as envisaged under Section 207 of the Code of Criminal Procedure ('Cr.P.C.' for short). A prima facie case was found and accordingly, the accused were charge-sheeted under Section 420 read with Sections 120-B, 468, 471 of the Indian Penal Code ('IPC' for short), to which they pleaded not guilty and claimed trial.

In order to substantiate the charges against the accused, prosecution examined as many as 09 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 their defence, accused did not lead any

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 prosecution failed to bring home the guilt against the accused. Accordingly, accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 13.12.2012.

Dissatisfied, the impugned judgment of acquittal was challenged by the complainant, by way of appeal which also came to be dismissed by learned Additional Sessions Judge, Ludhiana vide impugned judgment dated 12.01.2015. 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.

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 (Crl.) 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.

[RAMESHWAR SINGH MALIK]
JUDGE

19.10.2015
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