

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-675-2013 (O&M)
Date of decision: 29.10.2015

Raj Singh

... Petitioner

Vs.

Gurpreet Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. K.S. Hissowal, 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.

Feeling aggrieved against the impugned judgment dated 04.09.2012 passed by learned Additional Sessions Judge, Patiala, whereby appeal of the petitioner was dismissed, upholding the impugned judgment of acquittal dated 16.12.2011 passed by learned Sub Divisional Judicial Magistrate, Nabha, complainant 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 the complainant was an employee of Punjab Government and was working in Public Health Department. The accused, who was inimical towards the complainant had willfully made false imputations against the complainant in the village that the

complainant had been a terrorist and had committed many terrorist activities in the area and was arrested by the police so many times. It had been further alleged that the accused also propagated in the village that the complainant was also habitual of giving threats to the innocent villagers of his links of unsocial activities with gang persons. The accused also propagated in the village that the complainant was in the habit of giving false complaints against other persons and had been blackmailing the people. Accused made false imputations against the complainant in village Toderwal, Tehsil Nabha on 17.08.2003 at about 6.00 p.m., so as to harm his reputation in the village. It had been further alleged that on 30.08.2003, accused also submitted an application against the complainant to the Deputy Superintendent of Police, Nabha in which he made false imputations. The complainant reported the matter to Police Station Bhadson and made representations to higher officials of the department for taking action, but the police did not take any action against the accused.

After considering the preliminary evidence led by the complainant, the learned trial Court summoned the accused to face criminal trial for the offences under Section 499 of the Indian Penal Code ('IPC' for short). In the pre-charge evidence, accused was served notice of accusation under Section 500 IPC. Complainant produced 06 witnesses, besides producing other documentary evidence. After closing the evidence by the complainant, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure ('Cr.P.C.' for short). The accused denied all the allegations, pleaded false implication and claimed complete innocence. However, the accused did not lead any evidence in his defence.

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 complainant failed to bring home the guilt against the accused. Accordingly, the complaint was dismissed and accused was acquitted of the charges framed against him, vide impugned judgment of acquittal dated 16.12.2011.

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, Patiala vide impugned judgment dated 04.09.2012. Hence this criminal revision petition, at the hands of complainant.

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-respondent. 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 (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 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

29.10.2015
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