

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-173-2015

Date of decision: 04.12.2015

Gurnam Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. B.S. Bhalla, 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 09.10.2014 passed by learned Additional Sessions Judge, Ferozepur, whereby appeal of the petitioner was dismissed, upholding the impugned judgment of acquittal dated 02.06.2011, passed by learned Judicial Magistrate 1st Class, Zira, petitioner-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 & 3 of the impugned judgment, are that on 08.07.1998 when he along with Sarwan Singh was draining out the rain water from his fields in the area of his village Basti Chirag Wali Dakhli Hashmat Wala, District Ferozepur, they were assailed by Tehal Singh etc. armed with

deadly weapons at about 8.30 A.M. that on 08.07.1998 in that fields at the instigation of Ram Singh. That Tehal singh gave a sword blow at the index finger of his left hand and that Karnail Singh gave a stick blow at his left arm. Gurnam Singh fell down on the ground. He was beaten up by Jaswant Singh, Kabal Singh and Joga Singh. They also beaten up Sarwan Singh. In the meantime, Pala Singh came at the spot and rescued them from the clutches of the assailants. Lakhbir Singh and his associates had taken to them in injured condition to the Civil Hospital, Zira, where under treatment, he suffered that statement.

The said allegations as made by the complainant Gurnam Singh culminated into cross challan of the main challan State Versus Gurmeet Singh etc. whereby accused Tehal Singh, Kabal Singh, Joga Singh (since died), Karnail Singh and Ram Singh (since died) challaned for the offence punishable under Sections 326, 325, 324, 323, 148, 149 of the Indian Penal Code ('IPC' for short).

Challan having been presented against the accused, copy thereof along with documents attached therewith, was supplied to the accused as required 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 for the offences punishable under Sections 326, 324, 323, 148, 149 IPC. Accused pleaded not guilty and claimed trial. It is pertinent to mention here that Joga Singh and Ram Singh expired during the trial and proceedings against them were abated.

In order to prove its case, prosecution examined as many as 07 PWs, besides producing on record other relevant documentary evidence. On

conclusion of the prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C. All the incriminating material brought on record, was put to the accused. They denied the allegations levelled by the prosecution, alleged false implication and pleaded complete innocence. Opting to lead defence evidence, accused examined DW1 HC Lakhwinder Singh, besides producing other documentary evidence on record.

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, accused were acquitted of the charges framed against them, vide impugned judgment of acquittal dated 02.06.2011.

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, vide impugned judgment dated 09.10.2014. 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.

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 **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 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 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

04.12.2015
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