

In the High Court of Punjab and Haryana at Chandigarh

CRR No.1863 of 2014 (O&M)
Date of decision: 08.01.2015

State of U.T.Chandigarh

.....Petitioner

Versus

Parshant Tomar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.G.S.Wasu, Advocate for the petitioner.

SABINA, J.

Petitioner-State (Union Territory, Chandigarh Administration) has filed this petition challenging the acquittal of the respondent -Parshant Tomar as ordered by the appellate Court vide order dated 17.1.2014.

Learned counsel for the petitioner-Administration has submitted that the prosecution had been successful in proving its case. Respondent was found in possession of pistol along with two live cartridges without any permit or licence.

Respondent had faced trial in FIR No.203 of 30.3.2008 under Section 25 of the Arms Act,1959 ('the Act' for short)

Prosecution story in, brief, was that on 30.3.2008,

respondent was apprehended near House No. 5689, Sector 38-A, Chandigarh at about 6.30 p.m. From the possession of the respondent, one pistol and two live cartridges were recovered. Respondent could not produce any licence to keep the said articles in his possession.

In order to prove its case, prosecution led its evidence. Trial Court vide judgement/order dated 15.7.2011 ordered the conviction and sentence of the respondent under Section 25 of the Act. Aggrieved against the said judgement/order of his conviction and sentence, respondent preferred an appeal. Appellate Court vide impugned order dated 17.1.2014 acquitted the respondent of the charge framed against him.

Appellate Court, while ordering the acquittal of the respondent, held that PW3 Sub Inspector Jaspal Singh had stated in his cross-examination that the pistol in question belonged to maternal grand father of the respondent. Inder Singh, maternal grand father of the respondent was having a licence to keep pistol in question in his possession.

PW4 Head Constable Gurmukh Singh also admitted in his cross-examination that the pistol in question belonged to the grand father of the respondent and, at the time of its recovery, it was kept in its cover and was unloaded.

Inder Singh was examined as DW2 and he deposed that the pistol in question belonged to him and had been handed over to the respondent to be kept it in a safe place in the house.

Appellate Court had,thus, rightly ordered the acquittal of

the respondent. The view taken by the appellate Court is a possible one. The respondent could be said to be in possession of the pistol belonging to his grand father so as to keep it in a safe place.

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 is made out.

Dismissed.

**(SABINA)
JUDGE**

January 08,2015
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