

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2222-2014

Date of decision: 12.10.2015

Shekh Ram

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Gursimran Singh, Advocate for
Mr. Arnav Sood, Advocate
for the petitioner.

Mr. K.D. Sachdeva, Addl. AG, Punjab.

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.

Present criminal revision petition, at the instance of complainant, is directed against the impugned judgment dated 06.05.2014 passed by learned Sessions Judge, Pathankot, whereby appeal of the accused-respondents, against the judgment of conviction dated 19.11.2011 passed by learned Sub Divisional Judicial Magistrate, Pathankot, was allowed and conviction of the accused-respondents, was set aside.

Brief facts of the case, as noticed by the learned trial Court in para 2 of his impugned judgment, are that on 02.12.2001 MLR No.190/VK/Gsp pertaining to Janak Raj and MLR No.182/AHR/Gsp/2001 dated 02.12.2001

pertaining to Shekh Ram were received at the police station, which were handed over to ASI, who along with other police officials reached Civil Hospital, Gurdaspur, where Ward Incharge reported that the patient was not present on his bed. Again on 08.12.2001, ASI Updesh Rai reached Civil Hospital and got recorded the statement of Shekh Ram to the effect that he was resident of Dhollowal and was an agriculturist. On 01.12.2001, his brother Janak Raj was beaten up and thereafter they went to the police station, where both the parties were directed to appear on the next day. On 02.12.2001 at about 6.30 AM, he was going to the house of the respectables for requesting them to accompany him to the police station, and when he reached near the house of Godawari Devi at about 07.00 AM, Shamsheer Singh, Narinder Singh, Surinder Kumar @ Shinda sons of Harbans Lal, Balbir Singh and Godawari Devi came out from their houses and circled around him and stopped his bicycle. Shamsheer Singh gave Gandassi blow which struck above his left wrist. Thereafter Balbir Singh gave dang blow which struck on the right leg below the knee. Thereafter Narinder Singh and Surinder Kumar raised Lalkara. Then Narinder Singh gave dang blow which struck on his back. Another blow struck on his right shoulder. Third blow struck on his left arm. Another blow struck on his chest. Surinder Kumar gave dang blow which struck on his left leg. Godawari Devi also gave blows which struck on his face. Thereafter, they took away his clothes, watch, golden ring weighing 1 ½ tolas. Occurrence was witnessed by Seeta Devi, Deepa and Banarsi Dass. Thereafter, he went to his house, from where his son Jagjit Singh took him to Civil Hospital, Gurdaspur. Action be taken. Case was registered. Investigation was conducted. Statements of the witnesses were recorded. Accused were arrested. After completion of necessary formalities,

challan against the accused was presented in the Court.

The challan having been presented against the accused, copy thereof along with documents attached therewith, was supplied to the accused as required under Section 207 Cr.P.C. A prima facie case was found and accordingly, the accused were charge-sheeted by the learned trial Court under Sections 148, 326, 323, 324, 149 of the Indian Penal Code ('IPC' for short). Accused pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined as many as 05 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 all the allegations levelled by the prosecution, alleged false implication and pleaded complete innocence. In their defence, accused examined DW1 Garib Dass..

After hearing learned counsel for both the parties and going through the evidence brought on record, the learned trial Court came to the conclusion that the prosecution has proved its case, bringing home guilt against the accused. Accordingly, the accused were convicted, vide judgment of conviction dated 19.11.2011. Consequently, the convicts were awarded the sentence vide order of sentence of even date i.e. 19.11.2011, which read as under: -

“Balbir Singh

<i>U/s. 148 IPC</i>	<i>R.I. 2 year</i>	<i>Fine Rs.1000/-</i>	<i>In default, RI three months.</i>
<i>U/s. 324/149 IPC</i>	<i>R.I. 2 year</i>	<i>Fine Rs.1500/-</i>	<i>In default RI three months</i>

*U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI
one month*

Narinder Singh

*U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI
three months.*

*U/s. 324/149 IPC R.I. 2 year Fine Rs.1500/- In default RI
three months*

*U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI
one month*

Surinder Kumar

*U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI
three months.*

*U/s. 324/149 IPC R.I. 2 year Fine Rs.1500/- In default RI
three months*

*U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI
one month*

Kishori Lal

*U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI
three months.*

*U/s. 324/149 IPC R.I. 2 year Fine Rs.1500/- In default RI
three months*

*U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI
one month*

Shiv Lal

*U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI
three months.*

*U/s. 324/149 IPC R.I. 2 year Fine Rs.1500/- In default RI
three months*

*U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI
one month*

Varinder Singh

*U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI
three months.*

U/s. 324/149 IPC R.I. 2 year Fine Rs.1500/- In default RI three months

Shamsher Singh

U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI three months.

U/s. 324 IPC R.I. 2 year Fine Rs.1500/- In default RI three months

U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI one month

Godawari Devi

U/s. 148 IPC R.I. 2 year Fine Rs.1000/- In default, RI three months.

U/s. 323 IPC R.I. 6 months Fine Rs.500/- In default RI one month”

However, all the sentences were ordered to run concurrently.

Feeling aggrieved, convicts filed their appeals which came to be allowed by the learned Sessions Judge, vide his impugned judgment dated 06.05.2014. Hence this criminal revision petition, at the hands of the complainant.

Learned counsel for the petitioner submits that the learned trial Court rightly convicted the accused. The prosecution has brought on record cogent and convincing evidence, which was rightly found sufficient to record conviction. However, the learned Sessions Judge fell in serious error of law, while passing the impugned judgment of acquittal and the same is liable to be set aside. He further submits that the cogent and convincing evidence available on record against the accused, was not appreciated by the learned Sessions Judge in the correct perspective, because of which the impugned judgment of acquittal has resulted in miscarriage of justice. He prays for setting aside the impugned judgment, by allowing the present criminal revision petition.

Having heard the learned counsel for the petitioner at considerable length, 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, present one has not been 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, which are being recorded hereinafter.

A bare reading of the impugned judgment of acquittal passed by the learned Sessions Judge would show that the documentary as well as oral evidence was appreciated in the correct perspective, before arriving at a judicious conclusion. Evidence brought on record was not found sufficient to record the conviction of the respondents. Having said that, this Court feels no hesitation to conclude that the learned Sessions Judge committed no error of law, while passing the impugned judgment of acquittal and the same deserves 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 Sessions Judge was not one of the possible views. In this view of the matter, it can be safely concluded that the impugned judgment of acquittal do not suffer from any illegality and the same deserves 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 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 Sessions Judge was well-justified on facts as well as in law, for passing the impugned judgment of acquittal and the same deserves 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

12.10.2015
vishnu