

**In the High Court of Punjab and Haryana at Chandigarh**

**Crl. Revision No. 2787 of 2014  
Date of decision: 06.01.2015**

Manjeet Kaur

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. S.R.Hooda, Advocate  
for the petitioner.

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**SABINA, J.**

Respondents No. 2 to 7 had faced the trial qua commission of offence punishable under Section 148, 452, 323, 325, 506 read with Section 149 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 89 dated 31.5.2007, registered at Police Station Pinjore. Trial Court vide judgment/order dated 6.6.2012/7.6.2012 ordered the conviction and sentence of respondents No. 2 to 7 under Section 148, 323, 325, 452/149 IPC. Aggrieved against the said judgment/order of their conviction and sentence, respondents No. 2 to 7 preferred an appeal. The Appellate Court vide impugned order dated 15.3.2014 ordered the acquittal of respondents No. 2 to 7. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that prosecution had been successful in proving its case. Respondents No. 2 to 7 had entered the house of the petitioner and had inflicted

injuries on the person of the petitioner and her daughter.

Prosecution story, in brief, is that on 31.5.2007, at about 10.00 A.M., complainant Manjeet Kaur and her husband Sukhdev were present in the street outside their house and were talking to Jasbir Singh. Suddenly, respondents No. 2 to 7 armed with deadly weapons came to the spot and attacked the complainant and her husband. Complainant ran inside her house. Accused Raghubir and Balbir chased her and attacked the complainant and her daughter Rupinder Kaur with knives. Complainant suffered injury on her right arm whereas daughter of the complainant suffered injuries on her right hand. The other accused attacked Sukhdev with *lathis*.

The Appellate Court while ordering the acquittal of respondents No. 2 to 7 has held that complainant, in her cross-examination, had admitted that the fight had taken place in an open area in between Sri Gurudwara Sahib and the street belonging to the Gram Panchayat. In these circumstances, the learned Appellate Court rightly came to the conclusion that the fight had not taken place in the house of the complainant. It has been further noticed by the Appellate Court that accused Bhupinder Singh had also suffered injuries but the said injuries on his person, were not explained by the complainant. In fact, the dispute between the parties had started on account of construction of street and there was a dispute between the parties qua demarcation of the vacant area lying in between the street and Shri Gurudwara Sahib in front of the house of the complainant. Due to this reason, there was a sudden fight between the parties without any prior motive. The Appellate Court, thus, rightly came to the

conclusion that it was a case of free fight which had taken place in the heat of the moment and both the sides had suffered injuries. It has also transpired during the course of arguments that the complaint filed by the accused party was dismissed.

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”

The reasons given by the Appellate Court, while acquitting respondents No. 2 to 7, are sound reasons and call for no interference.

Dismissed.

**(SABINA)  
JUDGE**

**January 06, 2015**

**Gurpreet**