

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4275-2014

Date of decision: 10.08.2015

Mukesh Rani

... Petitioner

Vs.

Bhupinder Singh and anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Cheema, 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.

Instant criminal revision petition, at the hands of complainant, is directed against the judgment dated 23.09.2014 passed by learned Additional Sessions Judge, Panchkula and also the impugned judgment of acquittal dated 26.03.2013 passed by learned Judicial Magistrate 1st Class, Panchkula, whereby accused-respondent No.1 was acquitted of the charges framed against him.

Brief facts of the case, as recorded by the learned trial Court in para 2 of its impugned judgment of acquittal, are that on 27.11.2008, SI Lakhmi Chand along with Constable Suresh Kumar and Constable Mahender Singh were present on Amartex Chowk, Panchkula, when complainant Mukesh Rani moved a complaint with them alleging that she was a Teacher

by profession. She was residing in Panchkula alone. On 25.10.2008, at around 7.30 PM, she was walking towards her house from Sector 19. One white colour Maruti Car stopped near her. She could not note down its number because it was dark. The driver was in uniform of a lawyer. Second person was Bhupinder Singh, a resident of House No.837, Sector-19. He got down from the car and started misbehaving with her. He used vulgar and abusive language and tried to forcibly drag her inside the car. She raised a noise for help at which he threatened her with dire consequences. He said that the Chairman of University was his friend and that she cannot do anything. Then he ran away in the car. Complainant became frightened. She was under mental and physical trauma. She reached her house and narrated the incident to her family members. Earlier also, accused had committed such acts. She had reported the matter in PP, Sector-19 but the matter was resolved with the intervention of respectable persons. A penal action was prayed for. On this complaint, case was registered. Investigation was conducted. Accused obtained anticipatory bail on 09.12.2008. After completing formalities of investigation, final report was filed in the Court.

Copy of the challan and documents attached therewith, was supplied to the accused, as per the provisions of Section 207 of the Code of Criminal Procedure ('Cr.P.C.' for short). Having found a prima facie case against the accused, he was charge-sheeted. He pleaded not guilty and claimed trial.

In order to substantiate the charges against the accused, prosecution examined as many as 04 PWs, besides producing other documentary evidence. After closing the prosecution evidence, statement of

the accused was recorded under Section 313 Cr.P.C. The accused denied all the allegations levelled against him, pleaded false implication and claimed complete innocence. However, 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 prosecution has failed to bring home the guilt against the accused. Accordingly, accused was acquitted of the charges framed against him vide impugned judgment of acquittal dated 26.03.2013.

Feeling aggrieved, complainant filed his appeal against the abovesaid judgment of acquittal, which also came to be dismissed by the learned Additional Sessions Judge, Panchkula vide impugned judgment dated 23.09.2014. Hence this criminal revision petition.

Learned counsel for the petitioner submits that the learned Courts have misdirected themselves, while passing the respective impugned judgments. There was cogent and convincing evidence available on record, which was sufficient to record conviction of respondent No.1. 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 both 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 both 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 **Arulevlu'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

10.08.2015
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