

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-847-2014 (O&M)
Date of decision: 09.10.2015

Gulzari Lal

... Petitioner

Vs.

State of Haryana and ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Ms. Kamalpreet Kaur, Advocate
for respondent No.2.

Mr. Akshay Jain, Advocate
for respondents No.3 to 5.

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 18.11.2013 passed by learned Additional Sessions Judge, Sirsa, whereby appeal of the petitioner was dismissed, upholding the impugned judgment of acquittal dated 05.02.2010, passed by learned Judicial Magistrate 1st Class, Sirsa, petitioner 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 of the impugned judgment, are that complainant Gulzari Lal had filed a complaint under Section 156 (3) Cr.P.C., alleging that complainant was owner and in cultivating possession of the land as detailed in the complaint, situated in village Bani. He along with his brother Mohan Lal, Manphool and Ram Niwas was in cultivating possession of the land in sq. No.332 Killa No.8, 13 and 18. They never made any statement before the revenue authorities regarding surrendering the possession of the land, in favour of accused No.2 to 4 namely Jagdish, Bhim Sain and Sushil Kumar but they by conspiring with each other, accused Ram Partap Patwari entered a forged rapat No.213 dated 06.03.1995 in favour of accused No.2 to 4, in order to usurp the land comprising in sq. No.332 Killa No.13 (8-10), 18 (8-0) showing that Gulzari Lal complainant and his brother had made a statement before him to the effect that they had surrendered the possession of the land in favour of Bhim Sain, Jagdish and Sushil Kumar. The signatures of Dalip, Manphool and complainant have been shown in English over the said rapat No.213 dated 06.03.1995 which were forged one. After execution of the said forged rapat, the rapat roznamcha dated 13.03.1995 regarding the abovesaid land and Girdawari Rabi 1995 was entered and changed by accused No.1 in favour of accused No.2 to 4 and accused No.5 Ballaur Singh who was Kanungo at that time, attested the same. The complainant came to know about that wrong act in the month of February, 2001 and on 17.02.2001, he obtained the copies of all the records i.e. khasra girdwari, jamabandi and rapat roznamcha etc. On the basis of which FIR No.84 dated 07.02.2001 at

PS Rania was registered, 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 for the offences under Sections 465, 467, 471 read with Section 120-B 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 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 all the allegations levelled by the prosecution, alleged false implication and pleaded complete innocence. However, accused did not lead any evidence in their defence.

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 failed to bring home the guilt against the accused. Accordingly, accused were acquitted of the charges framed against him vide impugned judgment of acquittal dated 05.02.2010.

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, Sirsa, vide impugned judgment dated 18.11.2013. Hence this criminal revision petition, at the hands of

complainant.

Learned counsel for the petitioner submits that the complainant 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.

On the other hand, learned counsel for the accused-respondents submit that there was no sufficient evidence to record the conviction of the accused-respondents and the learned Courts have committed no error of law, while passing their respective judgments. They pray for dismissal of the present criminal revision petition.

Having heard the learned counsel for the parties, 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 **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

09.10.2015
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