

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1252-MA-2016 (O&M)

Date of decision: December 13, 2016.

Dharam Pal

... **Petitioner**

v.

Dr. Naresh and another

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Kunal Dawar, Advocate for the petitioner.

A.B. Chaudhari, J. (Oral):

Heard learned counsel for the petitioner at length. Assailing the impugned judgment and order of acquittal dated 23.5.2016, he submits that there is perversity and illegality in the reasons recorded by the trial court and the same is contrary to the evidence on record which is to the effect that accused No.1 was specifically entrusted with the job of protecting the property and had failed in his duty. He submitted that the trial court, therefore, committed an error in acquitting him despite the above admitted position.

Perused the impugned judgment and order and reasons recorded by the trial court. Even if the contention raised by Learned Counsel for the petitioner that there was a theft in respect of the property that was entrusted to the accused no.1 – Tehsildar Dr. Naresh, he could not be expected to take what was not in possession and it was commission of theft, but then, the requisite element of *mens rea* being absent, the trial court cannot be said to be faltered for recording the order of acquittal. In the light of the decision of the Apex Court in the case of Darshan Singh v/s State of

Punjab and another, 2010(1) RCR (Crl.) 751, it is not possible to interfere in the order of acquittal.

Hence, dismissed.

December 13, 2016.
kadyan

[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No