

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6837 of 1998

Date of Decision: 30.05.2016

Amrik Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.G. Chaudhary, Advocate,
for the petitioner.

Mr. Piyush Bansal, DAG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner was falsely implicated in FIR No.13 dated February 17, 1993 for commission of offences under sections 379 and 411 IPC. The trial failed. The petitioner was acquitted. No evidence came forward to support the case of the prosecution. It is not the case of the State that witnesses were suborned or evidence tampered with or witnesses turning hostile during cross-examination. The trial Court while acquitting the petitioner in its judgment dated March 25, 1996 held that no case against the petitioner was proved but while recording acquittal he gave the petitioner the benefit of doubt.

2. Mr. K.G. Chaudhary contends that in a case of no evidence the trial Court erred in using the expression 'benefit of doubt' since it is well settled proposition of law that acquittal in a criminal case is always honourable unless findings come that the accused has found his way to

acquittal by extraneous means. It transpires that on the same set of charges the petitioner received adverse ACRs for the period in question by reason of pendency of criminal investigation and trial. It is in these circumstances that Mr. Chaudhary submits that those ACRs deserve to be washed out emanating from the same set of facts. On the question of effect of the use of the expression 'benefit of doubt' on service career, he relies on the following decisions:-(1) Punjab State through its Collector and another v. Ex. Constable Gulzar Singh, 2012 (6) SLR 421; (2) CWP No.5228 of 2011 titled *Const. Sukhchain Singh v. The State of Punjab and others* decided on March 25, 2013; (3) LPA No.1580 of 2011 titled *General Manager Operation Circle, Dakshin Haryana Bijli Vitran Nigam, Narnaul and others v. Mathura Dass Gupta* decided on February 10, 2012 which help him in his basic contention that a casual observation of the criminal court giving the benefit of doubt is of no moment to describe acquittal as a dishonourable one to stick continued stigma of a criminal trial on a citizen which adversely affects his civil rights in public service.

3. India follows the common law to suit its own genius and the address of Sir Geoffrey Lawrence in his concluding address to the Jury is relevant in the context of the criminal law of sentencing, then King's Counsel, remembered in legal memory as a fine judge appointed on the King's Bench Division, to be later elevated as Lord Justice of Appeal in 1944 and who later was destined to Preside over the Tribunal set up to try war crimes at the Nuremberg Trials in 1946-1947 and who remarkably was a relative stranger to the criminal court but was engaged as defence counsel in his first murder trial to defend Dr John Bodkin Adams, a notorious serial

killer of his age and accused of murder of a patient in “one of the greatest murder trials of all times” explained with startling simplicity and clarity how reasonable doubt operates in a criminal case:

“Justice is of paramount consideration here, and the only way in which this can be done is for you to judge the matter on what you have heard in this court and in this court only. What you read in the papers, what you hear in the train, what you hear in the cafés and restaurants, what your friends and relations come and tell you; rumour, gossip, all the rest of it, may be so wrong. The possibility of guilt is not enough, suspicion is not enough, probability is not enough, likelihood is not. A criminal matter is not a question of balancing probabilities and deciding in favour of a probability. If the accusation is not proved beyond reasonable doubt against the man accused in the dock, then by law he is entitled to be acquitted, because that is the way our rules work. It is no concession to give him the benefit of the doubt. He is entitled by law to a verdict of not guilty.”

I should imagine this profound statement to be the quintessence of much that composes the criminal law.

4. Closer home this is even the view of this Court since at least 1967 in Jagmohan Lal v. State of Punjab, AIR 1967 Punjab & Haryana 422 speaking through Jagan Nath Kaushal, J. in his brief tenure as a Judge of this Court before he resigned office, and a celebrated criminal lawyer of his time, holding as follows:-

“In criminal law, the Courts are called upon to decide whether the prosecution has succeeded in bringing home the guilt to the accused. The moment the court is not satisfied regarding the guilt of the accused, he is acquitted. Whether a person is acquitted after being given a benefit of doubt or for other reasons, the result is that his guilt is not proved. The Code of Criminal Procedure does not contemplate honourable acquittal. The only words known

to the Code are “discharged” or “acquitted”. The effect of a person being discharged or acquitted is the same in the eyes of law. Since, according to the accepted notions of imparting criminal justice, the Court has to be satisfied regarding the guilt of the accused beyond a reasonable doubt, it is generally held that there being a doubt in the mind of the court, the accused is acquitted.”

5. In Bhag Singh v. Punjab & Sind Bank Ltd. & Ors., 2006 (1)

S.C.T. 175 : (2005) 6 SLR 464 the Division Bench held:-

“In our opinion, the mere use of the expression “benefit of doubt” or “not proved beyond reasonable doubt” by the trial Court or the appellate court cannot be permitted to convert an acquittal on the ground of no evidence, to something less than that. The concepts of “Honourable Acquittal”, “fully exonerated” or “acquitted of blame” are all unknown to the Criminal Procedure Code, 1973. Therefore, the term “benefit of doubt” cannot detract from the impact of the acquittal.”

6. Mr. Chaudhary informs the Court that the petitioner has retired from service and the benefit if any of relief to him would sound in pecuniary and non-pecuniary benefits consequentially. The petitioner retired as Inspector in Punjab Police. He was ignored for promotion because of the criminal trial which had resulted in the adverse ACRs for the period April 01, 1993 to September 30, 1993. For the remaining period of the assessment year adverse remarks have already been ordered to be expunged in CWP No.6393 of 1998 filed by the petitioner which was decided by me on May 23, 2016. The stigma of integrity doubtful for the period October 01, 1993 to March 31, 1994 was washed off with the writ issued by accepting the petition.

7. As a result of the above discussion, the petition is allowed. The

impugned order dated March 11, 1994 (P-1) recording adverse ACRs is set aside with all consequential benefits flowing from setting aside of the impugned remarks in the adverse ACRs touching upon integrity.

(RAJIV NARAIN RAINA)
JUDGE

30.05.2016
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