

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 2832 of 2015 (O&M)
DECIDED ON: JANUARY 21, 2016

VISHAL SHARMA

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTEHRS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

JASPAL SINGH, J

CRM No. 24774 of 2015

In view of averments made in the application the same is allowed
and delay of 80 days' in filing the instant revision petition is condoned.

CRM No. 24775 of 2015

Application is allowed, as prayed for.

Documents are taken on record subject to all just exceptions.

CRR No. 2832 of 2015

Instant revision petition has been preferred by Vishal Sharma feeling
dis-satisfied against the judgment dated July 13, 2011 passed by learned Judicial

Magistrate 1st Class, Ambala City in case FIR No. 78, March 10, 2006, under Section 506 read with Section 34 IPC, Police Station Parao, which has been subsequently upheld by lower Appellate Court vide its judgment dated March 04, 2015.

2. At the very outset, it would be pertinent to mention that FIR No.78, dated March 10, 2006, under Section 506 read with Section 34 IPC, Police Station Parao was registered by Vishal Sharma-petitioner against the respondents-accused. After completion of the necessary investigation, report under Section 173 Cr.P.C. was submitted. On finding a prime facie case, respondents-accused were charge-sheeted for committing the offence punishable under Section 506 read with Section 34 of IPC, to which they did not plead guilty and claimed trial. Accordingly, the case was listed for prosecution evidence.

3. After hearing learned counsel for the parties and appraisal of evidence brought on record by the prosecution, respondents-accused were acquitted of the charge vide judgment dated July 13, 2011 passed by learned Judicial Magistrate 1st Class, Ambala City.

4. Aggrieved against the acquittal of the respondents, Vishal Sharma preferred an appeal which was also dismissed by lower Appellate Court vide its judgment dated March 04, 2015.

5. Disheartened with the judgments passed by the courts below, petitioner has approached this Court by way of instant revision petition.

6. Before deciding the revision petition on merit, it would be pertinent to mention that Section 378 of the Code of Criminal Procedure deals with the appeal in case of acquittal. Sub section 4 of Section 378 of the Code of

Criminal Procedure is relevant in this regard, which clearly provides that if an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court. But in the instant case, no application seeking grant of special leave to appeal against the order of acquittal has been moved as enshrined under Section 378(4) of the Code of Criminal Procedure. Rather, a close scrutiny of the file transpires that the judgment of acquittal passed by learned Judicial Magistrate Ist Class, Ambala was challenged before the lower Appellate Court by way of an appeal which also stands dismissed vide judgment dated March 04, 2015.

7. Adverting the facts of the instant case, undoubtedly no such application under Section 378(4) of the Code of Criminal Procedure seeking grant of special leave to appeal has been preferred by the aggrieved person i.e. complainant. Thus in the absence of the said application, instant revision petition is not maintainable. As such the same stands dismissed.

JANUARY 21, 2016
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(JASPAL SINGH)
JUDGE