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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1322-SBA of 2005

Date of decision: September 28, 2017

Manohar Lal Jangid

.....Appellant

Versus

R.K. Bhardwaj

.....Respondent

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

Present: None.

A.B. CHAUDHARI, J (Oral)

Being aggrieved by the judgment dated 03.04.2004 passed by Judicial Magistrate First Class, Sirsa in case No.554-IPC/99, by which the learned trial Court recorded the order of acquittal of the respondent, the present appeal was filed by the appellant.

I have perused the record as well as the impugned judgment in question and the grounds of appeal. The trial Court has given the following reasons in Para-21 of the judgment to hold that the Chief Editor and publisher of the newspaper Sandhya Rama Times cannot be responsible in the absence of *mens rea*. I quote the following portion from Para-21 of the impugned judgment:-

“21. However even having come to the conclusion that the news item in itself is scandalous and defamatory in character it is difficult to hold that the accused RK Bhardwaj who is depicted as only the Chief Editor and publisher of the newspaper Sandhya Rama Times, can be responsible for the publication thereof. It has been held in

AIR 1992 Supreme Court 2206 KM Mathew Vs. State of Kerala and another that to hold chief editor responsible for publication of any news item as defamatory there must be positive averments in the complaint regarding knowledge of the objectionable character of the matter. In the present complaint there is not even an averment in the complaint or whisper in the evidence led by the complainant that the Chief Editor i.e. accused had perused the material or edited it before its publication or that it was published with his knowledge or consent. There is no allegation against the Chief Editor except the motive attributed to him that the news item was defamatory in nature and published in the newspaper of which the accused was Chief Editor. It has been observed in AIR 1992 Supreme Court 2206 (Supra) that the presumption under section 7 is only against the person whose name is printed as 'Editor' as required under section 5(1). There is a mandatory (though rebuttable) presumption that the person whose name is printed as 'Editor' is the editor of every portion of that issue of the newspaper of which a copy is produced. Section 1(1) of the Act defines 'Editor' to mean the person who controls the selection of the matter that is published in a newspaper Section 7 raises the presumption in respect of a person who is named as the Editor and printed as such on every copy of the newspaper. The act does not recognize any other legal entity for raising the presumption. Even if the name of the chief editor is printed in the newspaper, there is no presumption against him under Section 7 of the Act. As such the accused cannot be held responsible for publication of the said defamatory news item in his newspaper.”

Having regard to the said reasons, I think it is not possible to have second view of the matter in appeal against acquittal. In the wake of the parameters of the appellate Court dealing with the appeal against acquittal, the order of acquittal cannot be interfered with.

Hence, the appeal stands dismissed.

(A.B. CHAUDHARI)
JUDGE

September 28, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No