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

CRM-A-750-MA of 2013 (O&M)
Date of decision: October 31, 2017

Nachhattar Singh and another

.....Appellants

Versus

Mewa Singh and others

.....Respondents

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

Present: Mr. M.K. Singla, Advocate for the appellants.

Mr. R.S. Rana, Advocate
for the respondents.

A.B. CHAUDHARI, J (Oral)

CRM No.40409 of 2013

There is a delay of 503 days in filing the application seeking grant of leave to appeal. The ground that has been raised in the application for delay is that the appeal against acquittal was earlier wrongly filed before the Session Court. In view of the confusion that has arisen after the amendment which came into force as to whether the appeal would lie before High Court or Sessions Court against the judgment and order of acquittal in a private complaint case, the reason for delay is good and sufficient.

In the light of above, though there is an inordinate delay, giving the benefit of doubt to the appellants, I am inclined to condone the delay.

Delay is condoned.

CRM-A-750-MA of 2013

With the consent of learned counsel for the rival parties, this appeal against acquittal is taken up for final disposal today itself.

Learned counsel for the appellant argued that the impugned judgment and order of acquittal is wholly wrong and perverse and will have to be set aside. According to him, the prosecution proved its case beyond reasonable doubts and therefore, the trial judge could not have acquit to the respondents in the matter of defamation of the appellants since according to counsel for the appellants, respondents had lodged a false FIR in the Police Station. The fact that the appellants were tried certainly supports his contention that the FIR was lodged with a view to defame. He therefore prayed for reversal of the acquittal order.

Per contra learned counsel for the respondents opposed the appeal and supported the impugned judgment and order so also the reasons therein by which the acquittal was recorded. He further submitted that the appellant and respondents are the blood relatives i.e. real brothers. Respondent had lodged FIR with the Police Station since son of respondent No.1 was murdered and had expressed suspicion in the FIR. According to him, merely because the appellants were acquitted of charges levelled against them, pursuant to the FIR lodged by the respondents, it would not automatically mean that any defamation was made by the respondents. He prayed that appeal be dismissed.

I have perused the impugned judgment and order. For the reasons recorded therein and after hearing learned counsel for the rival parties, I find that none of the ingredients under Section 499 IPC or

Section 500 IPC have at all been proved since lodgment of the FIR by the respondents by itself and showing suspicion on the accused persons *ipso facto* would not amount to defamation. The remedy lay elsewhere.

Following are the reasons given in the Para 11 of the judgment passed by the trial Court:-

“I have heard the learned counsel for the complainants and learned defence counsel and have also gone through the oral as well documentary evidence led by complainant and accused and had also gone through the law cited by both the parties. Admittedly, the complainant and accused belong to one family as they are real brother. So far as the authority, relied upon by the complainant is concerned, the facts of the case as pleaded in the cited case are clearly different from the facts of the case as pleaded in the cited case are clearly different from the facts of the present case. On the contrary, Hon'ble Supreme Court of India in case Jegery J. Diermerier (Supra) has specifically held that information given in good faith to the authorities against the other or for the public good, does not in any way, amount to the defamation because the person whom, the said application is given. The case as set up by the complainant, comes squarely of ambit of 10th Exception of Section 499 of IPC, as discussed above. So, applying the law laid down by the Hon'ble Apex Court, stated above, it is clear that the complainants have failed to prove case against the accused. As such, the accused stands acquitted of the charge framed them, beyond shadow of reasonable doubt.”

Be that as it may, I find that the trial Court was justified in extending the benefit of doubt even on merits of the case. I find that there is no reason that this Court should interfere with the order of acquittal.

In the case of ***Darshan Singh vs. State of Punjab and another (2010)2 SCC 333*** in Para 61, in view of the the law laid down by the Apex Court, it is not possible to interfere in the matter.

“61. In a case of acquittal, if the trial court's view is a possible or plausible view, then the appellate court or the High Court would not be justified in interfering with it. It is the settled legal position that there is presumption of innocence and that presumption is further fortified with the acquittal of the accused by the trial court. The appellate court or the High Court would not be justified in reversing the judgment of acquittal unless it comes to a clear conclusion that the judgment of the trial court is utterly perverse and on the basis of the evidence on record, no other view is plausible or possible than the one taken by the appellate court or the High Court.

In that view of the matter, I make the following order:-

(i) CRM-A-750-AM-2013, is dismissed.

(A.B. CHAUDHARI)
JUDGE

October 31, 2017
anju rani

Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No