

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

CRM-A-163-MA-2016 (O&M)
Date of decision : 02.03.2017

Om Parkash

...Applicant-Appellant

Versus

Prem Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present : Mr. K.D.S. Hooda, Advocate for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

CRM-2854-2016

Heard.

Keeping in view the averments made in the application, the same is allowed. The delay of 361 days in filing the present special leave to appeal is hereby condoned.

Main Case

This special leave to appeal has been filed against the judgment dated 20.11.2014, passed by learned Judicial Magistrate 1st Class, Bhiwani whereby, the accused-respondents were acquitted in the complaint case filed under Sections 452, 323 and 506 of the Indian Penal Code (for short 'IPC') read with Section 149 IPC.

It is contended that the learned trial Court has erroneously passed the impugned judgment as the case of the applicant-appellant is duly

proved from the statement of the applicant-appellant, injured-Sukram (son of the applicant-appellant) and medical opinion of Dr. Rakesh, who medico legally examined injured-Sukram. Thus, the impugned judgment is liable to be set-aside.

I have heard the learned counsel and carefully perused the entire record on file.

In **State of UP Vs. Ram Sajivan and others**, 2010 (1) SCC 529, Hon'ble the Supreme Court of India, observed as under:-

*“In the case of **Raj Narain v. State of U.P. & Others** [Criminal Appeal Nos. 891-892 of 2002 decided on 18.09.2009], this Court reiterated the aforesaid view and held that even if two views are reasonably possible, one indicating conviction and other acquittal, this Court will not interfere with the order of acquittal. However, this Court will not hesitate to interfere with such order if the acquittal is perverse in the sense that no reasonable person would have come to that conclusion, or if the acquittal is manifestly illegal or grossly unjust.”*

In the instant case, there are material contradictions in the statement of the applicant-appellant and injured-Sukram. During his cross-examination, the applicant-appellant had deposed that respondents gave beatings to his son and wife in front of him. However, in the complaint, he mentioned that he reached at the spot on hearing the hue and cry of his son and wife. Son of the applicant-appellant, injured-Sukram, in his cross-examination admitted that his father-Om Parkash was not present at the time of occurrence and came later. Admittedly, respondent No.1-Prem Singh had

fracture in his leg and hand. That being the situation, the allegation of giving injury by him highly improbable. Further, the alleged incident took place on 13.10.2008 and the MLR of injured-Sukram was carried out on 15.10.2008. The veracity of this MLR is itself falsified by the statement of the applicant-appellant that he got the said MLR prepared falsely. With these lacuna in the case of the applicant-appellant, this Court feels that learned Judicial Magistrate 1st Class, Bhiwani, has passed the impugned judgment dated 20.11.2014, after appreciating the entire facts and circumstances of the present case and no other view is possible.

It is a settled law as has been held in *C. Antony Vs. K.G. Raghavan Nair*, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Accordingly, the special leave to appeal is declined.

Dismissed.

02.03.2017

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No