

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

CRM-A-952-MA-2016 (O&M)
Date of decision : 15.02.2017

Singh Ram

...Applicant-Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kanwaljeet S. Derabassi, Advocate
for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

CRM No.15196 of 2016

Heard.

There is inordinate delay of 1097 days in filing the application
for special leave to appeal.

No satisfactory explanation is forthcoming to condone the
delay as such, no case for condonation of delay is made out.

Dismissed.

Main Case

This special leave to appeal is directed against the impugned
judgment dated 02.03.2013 passed by learned Sub Divisional Judicial
Magistrate, Dera Bassi, whereby respondents No.2 and 3 were acquitted of

the charges framed against them under Sections 427 and 506 of the Indian Penal Code (for short 'the IPC') read with Section 324 IPC.

The learned counsel contends that respondents No.2 and 3 have hurt the religious feelings of the applicant-appellant by using bad words against *Guga Marhi* and *Khera* and by demolishing the boundary wall of the said *Guga Marhi* and *Khera* towards their side. Despite this fact, the learned trial Court has not framed the charges under Sections 295-A and 452 IPC.

I have heard the learned counsel and 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 this case, the applicant-appellant has failed to lead any documentary evidence qua the existence of the alleged demolished wall. There is material contradictions in the statement of the applicant-appellant and that of the witnesses. In the written complaint before SHO, P.S. Dera Bassi, Ex.C2, there is no mentions of accused/respondent No.2. In the

second complaint, Ex.C3, there are no allegations against either of the accused/respondents. There is delay of more than six months in filing present complaint as the alleged occurrence took place on 06.05.2005 and the complaint was filed on 09.11.2005. The applicant-appellant is unable to explain this delay. Moreover, he has not examined the material witness, Niranjana Bhagat, in whose presence allegedly the wall was demolished.

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 hereby dismissed on merits and being time barred.

15.02.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No