

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

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**CRR-1911-2012 (O&M)
Date of Decision: 07.09.2017.**

Shamsher Singh

....Petitioner.

Versus

Hemraj and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: None for the petitioner.

Mr. Aminder Preet, Advocate for respondent No.1.

Ms. Bhavna Gupta, Deputy Advocate General, Punjab.

Ramendra Jain, J.(Oral)

This revision petition is directed against the judgment dated 03.02.2012 passed by learned Additional Sessions Judge, Patiala affirming the judgment of acquittal dated 21.12.2009 in favour of respondent No.1.

For ready reference, Section 401 of the Code of Criminal Procedure is reproduced hereunder:-

401.High Courts powers of revision.-

(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) *No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defense.*

(3) *Nothing in this section shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.*

(4) *Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.*

(5) *Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.*

Sub Clause (3) clearly speaks that no judgment of acquittal can be converted into conviction by this Court.

Considering the above specific provision, it would be a futile exercise to hear arguments in this revision petition as the judgments of Courts below cannot be converted into conviction of respondent No.1. Accordingly, the petition is dismissed.

(RAMENDRA JAIN)
JUDGE

07.09.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No