

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

Crl. Appeal No.AS-174 of 2017 (O&M)

Date of decision: October 11, 2017

Harpal Singh

...Appellant

Versus

Jagdev Singh @ Chhota Singh

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gaurav Sharma, Advocate
for the appellant.

Mr.L.S.Sidhu, Advocate
for respondents No.1 and 2.

Ms.Simranjeet Kaur, Asstt. Advocate General
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against the impugned judgment dated 06.07.2010 passed by learned Addl. Chief Judicial Magistrate, Sangrur, whereby the accused-respondents were acquitted of the charges framed against them.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that in the present case, challan was presented against accused Jagdev Singh @ Chhota Singh and Jaspal Singh in case FIR No.292 dated 04.08.2005 under Sections 406, 420 and 477 IPC

evidence and after hearing learned counsel for the parties, learned ACJM, Sangrur, acquitted the accused-respondents of the charges framed against them. An appeal was filed by the complainant before Court of Session and learned Addl. Sessions Judge, Sangrur, dismissed the same being not maintainable vide judgment dated 03.12.2012.

Aggrieved from the above-said judgments, present appeal has been filed.

At the time of arguments, learned counsel for the appellant argued that appeal is maintainable before Court of Session in view of the provisions of Section 372 Cr.P.C. and relied upon the law laid down by the Hon'ble Full Bench of this Court in ***CRM No.790-MA of 2010 titled as M/s Tata Steel Ltd. vs. M/s Atma Tube Products Ltd. and others, decided on 18.03.2013***, in which it is held as under:-

“139. For the reasons assigned above, we sum up our conclusions and answer the questions as formulated in para 6 of this order, in the following terms:-

XXX

XX

XX

XXX

Question -(E) (vii) *In view of proviso to Section 372 an appeal preferred by a 'victim' against the order of acquittal passed by a Magistrate in respect of a cognizable offence whether bailable or non-bailable shall lie to the Court of Sessions, the State's appeal under Section 378(1) (a) of the Code against that very order shall also be entertained and/or transferred to the same Sessions Court.*

Question-(F) (viii) *The proviso to Section 372 inserted w.e.f. December 31, 2009 in prospective in application and only those orders which have been passed on or after December 31,2009, irrespective of the date of occurrence or registration of FIR or filing of complaint, shall be appealable at the instance of a 'victim' under the afore-stated proviso. Consequently, a revision petition preferred against an order of acquittal passed prior to December 31, 2009 cannot be converted into an appeal and shall be decided accordingly.”*

In view of the above facts and circumstances and laid down by the Hon'ble Full Bench of this Court, the present appeal is allowed. The matter is remanded back to the first Appellate Court for deciding the appeal of the appellant as per law. The parties are directed to appear there on 06.11.2017.

October 11, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No