

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3872-2017 (O&M)

Date of decision: 03.10.2018

Gurpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Ankur Bansal, Advocate for the petitioner.

Mr. AS Gill, DAG, Punjab.

Mr. Umesh Sharma, Advocate for
Mr. Karamjit Singh, Advocate for the complainant.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the judgment of conviction and order of sentence dated 17.07.2017 of the Ist Appellate Court, on the ground that the Ist Appellate Court, has no jurisdiction to entertain the appeal of the State, against acquittal of the petitioner. While convicting the petitioner under Section 447 IPC, the Ist Appellate Court, has lost sight of the fact that the trial Court was not empowered to take cognizance against the petitioner on filing of final report under Section 173 (2) Cr.P.C., beyond the limitation period of one year.

In nutshell, the petitioner was booked, tried and acquitted under Section 447 IPC vide judgment of the trial Court dated 05.02.2015, in case FIR No. 04 dated 11.10.2011 registered under Section 447 IPC, Police Station NRI, Jalandhar, on the allegations that he forcibly tried to trespass

the land of complainant-Ranjit Singh.

Being dissatisfied, the State approached the Ist Appellate Court, who vide impugned judgment dated 17.07.2017 held the petitioner guilty under Section 447 IPC and send the case back to the trial Court for hearing the petitioner on quantum of sentence.

Learned counsel for the petitioner *inter alia* contends that in view of Section 378(1) (b), State could file appeal against acquittal of the petitioner before this Court only and not before the Court of Sessions, because the offence under Section 447 IPC is bailable and non-cognizable. The limitation for filing appeal against judgment of acquittal under Section 447 IPC is only for one year under Section 468 Cr.P.C. sub-clause 2(b) Cr.P.C. The trial Court also ignored the fact that it could not have taken cognizance in the aforesaid FIR against the petitioner as final report under Section 173(2) Cr.P.C. was filed much after the expiry of period of limitation i.e. one year.

On the other hand, learned State counsel has not been able to refute the above submissions of learned counsel for the petitioner and fairly conceded the above submissions.

Considering the above factual aspect of the matter, the instant revision is accepted. The impugned judgment of conviction dated 17.07.2017 of the Ist Appellate Court is set aside. The petitioner is acquitted of the charges framed against him.

October 03, 2018
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**