

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

**CRM-A No. 118-MA of 2018
Date of Decision: 11.07.2019**

Vrish Bhan

..... Applicant-Appellant

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. D.P.S. Bajwa, Advocate
for the applicant-appellant.

JASWANT SINGH, J.

1. Present application has been filed under Section 378 (3) of the Code of Criminal Procedure, 1973 (in short “the Code”) for grant of leave to file the appeal against the judgment of acquittal dated 22.09.2017 passed by learned Additional Sessions Judge, Jind, whereby all the accused persons (respondent Nos. 2 to 7 herein) have been acquitted for offences under Sections 148, 427, 436, 506, 447, 457, 380 read with Section 149 and 201 of IPC.

2. Facts of the case of the prosecution are that a written complaint was received by the local police on 22.05.2015 to the effect that about fifteen (15) persons, who were equipped with deadly weapons, had criminally trespassed the house of the complainant-Vrish Bhan (applicant herein) situated in the field in the intervening night of 15/16.05.2015 at about 2.00 a.m. (night) and attacked with an intention to cause injuries on his (complainant) person to take the forcible possession of the land. Further, the complainant claimed that those suspects, namely, *Aman* and *Ajay* were

armed with “*iron phali*” and *Rampal, Ramphal, Kulwant and Anup* were armed with “*gandasi*” and other **accused** were armed with “*jellies*”. They also broken the main gate of entrance of his house and the accused persons also gave “*gandasi*” blow on the person of the complainant but due to pitch dark, they could not succeed in their design to cause injury. The complainant managed to save himself. It is further alleged that while accused persons leaving the place of occurrence, they took with them the agricultural equipments/utensils and also damaged the standing crop over land about seven (07) acres which was fit for harvesting. On the basis of these allegations, an F.I.R. was registered against the accused/respondents.

After completion of necessary formalities of investigation, the report under section 173 Cr.P.C. was presented by the prosecution in the Court against the respondents/accused. Thereafter, the case was committed to the Court of Sessions. Copies of challan were supplied to the accused free of cost and on the basis of *prima facie* case, the accused were charge-sheeted by the Court for commission of offences under ***Sections 148, 427, 436, 506, 447, 457, 380 read with Section 149 of IPC and Section 201 of IPC.***

To prove its case against the respondents-accused, the prosecution has examined as many as fifteen (15) witnesses, which are as under:-

“ *HC Satpal as PW-1, Vrishbhan (complainant) as PW-2, EHC Sham Lal as PW-3, ASI Raj Kumar as PW-4, EHC Suresh Kumar as PW-5, Constable Jang Bahadur as PW-6, SI Pawan Kumar as PW-7, SI Om Parkash (Investigating Officer) as PW-8, HC Kuldeep Singh as PW-9, ASI Mahender Singh as PW-10, Kuldeep Gupta, Draftsman as PW-11, SI Jaibir Singh as PW-12,*

Inspector/SHO Nar Singh as PW-13, Bhim Singh (brother of complainant) as PW-14 and Angoori as PW-15.

On completion of prosecution evidence, the statements of accused under Section 313 Cr.P.C. were recorded in which all the incriminating circumstances appearing by way of evidence of prosecution against the respondents-accused were put to them and they pleaded their innocence and false implication.

On the basis of weak evidence led by the prosecution, the Sessions Court has acquitted the respondents for the commission of offences for which they have been charge-sheeted.

3. We have heard the learned counsel for the appellant-applicant and have also gone through the paper book very carefully.

At the very outset of the case, there is delay in the registration of the F.I.R. As per the allegations of the prosecution, the alleged occurrence took place in the intervening night of 15/16.05.2015 at about 2.00 a.m. and it is crystal clear that the matter was reported to the local police on 22.05.2015 at about 8.30 p.m. We fail to understand that why the matter was not reported by the complainant party immediately to the police and why the complainant party remained silent for approximately six days to get the registration of the F.I.R. In the absence of giving any kind of well explanation for registration of F.I.R. with delay, it can be said that time between alleged occurrence and registration of F.I.R. might have been used by the complainant party to concoct the false story to implicate the accused and introduction of false witnesses. Moreso, no recovery of weapon was affected by the police on the basis of statement of the respondents-accused.

As such, the case of the prosecution is not free from doubt, accordingly, the

lower Court has rightly disbelieved the case of prosecution.

4. That apart, the scope of the Appellate Court, while dealing with the appeals against acquittal, is settled. Though there is no embargo on the Appellate Court to reverse the decision based on the evidence upon which the acquittal is based, generally the order of acquittal based on presumption of innocence of the accused, is further strengthened by acquittal. The Appellate Court, while considering an appeal against acquittal, has to consider whether there are compelling and substantial reasons for reversing the order of acquittal. The Appellate Court can reverse the order of acquittal if the view taken by the Court is palpably erroneous and it could not have been taken by the Court of competent jurisdiction and is taken against well settled canon of criminal jurisprudence. Merely because the Appellate Court, on re-appreciation and re-evaluation of the evidence, is inclined to take a different view, interference with the judgment of acquittal is not justified. If the view taken by the trial Court is a possible view, even if two views are equally balanced, it need not result in interference by the Appellate Court in the judgment of the trial Court of acquittal. The Appellate Court will have to see whether there is perversity in the decision, if the conclusions are contrary to the evidence on record, or the Court's entire approach is patently illegal or it is based on erroneous understanding. If the order of acquittal is to be reversed, the Appellate Court must examine and discuss the grounds given by the trial Court to acquit the accused and must give cogent reasons to overturn the findings. Thus, while considering the order against acquittal, generally the Appellate Court should not interfere where view taken by the trial Court is not unreasonable or perverse. With this legal position in mind, we have considered the view

taken by the trial Court is a possible view and it does not require any interference by this Court.

5. In view of the above discussion, this Court is of the opinion that the trial Court, while appreciating the entire evidence in its proper perspective, has rightly held that the prosecution has failed to prove its case against the accused-respondents beyond any reasonable doubt. Thus, no case for any interference in the impugned judgment is made out. The view of the trial Court is hereby affirmed and is maintained.

The **application** is without any merit and, therefore, **dismissed**.

Leave to Appeal is declined.

(JASWANT SINGH)
JUDGE

July 11, 2019
'dk kamra'

(LALIT BATRA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No