

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

246

CRR No. 823 of 2015 (O & M)
Date of Decision: 25.3.2019

Mukesh Chander

.....**Petitioner**

v.

Hans Raj and others

.....**Respondents**

CORAM HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Kunal Mulwani, Advocate, for the petitioner

RAMENDRA JAIN, J.

Petitioner Mukesh Chander has laid challenge to the judgment of the First Appellate Court dated 27.10.2014, affirming the judgment of acquittal dated 2.7.2011, passed by the learned Judicial Magistrate Ist Class, Jalandhar, whereby respondents No.1 to 8 (in short private respondents) were acquitted of the charges levelled against them.

In short, the respondents were booked and tried in case FIR No. 99 dated 25.9.2004, under Sections 295, 298 and 506 IPC, registered at Police Station Bhogpur, District Jalandhar, on the allegations that they had hurt religious feelings of complainant Surat Chander by throwing carcass, after peeling skin from dead bodies of the animals, in the adjacent land. Earlier a compromise had taken place, wherein private respondents had agreed not to throw the carcass bones of dead animals in the adjoining land of the village. However, in utter disregard of their undertaking, the private respondents on 1.8.2004 threw carcass of animals weighing about 50 kgs. in front of his house in between the main gate and the place of his worship. Apart from above, the

family of the complainant was threatened with dire consequences. However, after holding trial, the private respondents were acquitted by the trial Court.

Being aggrieved, the complainant approached the First Appellate Court, but remained unsuccessful as his appeal too was dismissed.

Learned counsel for the applicant while relying upon the judgment of “**Laxmi Devi v. State of Delhi, 2011 (11) RCR (Criminal) 783**”, contends that rejection of proceedings under Sections 107/151 Cr.P.C. by learned SDM for want of prosecution on the complaint of the applicant Ex.DA, could not have been made the basis of acquittal of the private respondents by both the Courts below inasmuch as proceedings under Sections 107/151 Cr.P.C. are always preventive in nature, whereas the trial against the private respondents under Sections 295, 298 and 506 IPC is punitive in nature. Therefore, both the Courts failed to appreciate that aforesaid FIR against the private respondents was not hit by the doctrine of double jeopardy.

After giving thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the reasons to follow :-

1. Initially, complaint Ex.DA was filed by the petitioner before the District Magistrate levelling the same allegations against the private respondents as are in complaint Ex.PA, which culminated into the aforesaid FIR. The same was further referred to Sub Divisional Magistrate. A person cannot be vexed twice for the same offence. Therefore, moving of two complaints by the petitioner on similar allegations before different forums, definitely amounts to double jeopardy inasmuch as, at the threshold, the petitioner was required to approach the police authorities, who could take appropriate action against the private respondents i.e. either to recommend

kalendra under Sections 107/151 Cr.P.C. to SDM concerned or to register the aforesaid FIR. However, for two different legal recourse, by the petitioner, the petitioner initially was made to suffer to face trial before concerned SDM and thereafter, on the same set of allegations, to face trial in judicial Court.

Both the Courts below have rendered the impugned judgments of acquittal of the private respondents after dealing with the evidence led by the prosecution in detail. Learned counsel for the petitioner except for the above submissions, could not point out any legal infirmity in the judgments of the Courts below, which cannot be set aside in a revision inasmuch as this Court, while exercising revisional powers, has very limited jurisdiction which can be exercised only on the following three counts:-

- (1) Whether the Courts below have exercised their powers beyond their jurisdiction;
- (2) or the same has been exercised illegally; and
- (3) have not exercised their powers diligently.

Learned counsel for the petitioner has not been able to point out any such legal infirmity. No question of law, much less substantial question of law has been raised.

I have gone through the judgments of the Courts below and find no illegality or perversity in the same. They being based on appreciation of evidence, are upheld.

Accordingly, the present petition stands dismissed.

(RAMENDRA JAIN)
JUDGE

25.3.2019

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No