

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRR No.3688 of 2017 (O&M)
Date of Decision: 20.12.2021**

Balram Gupta

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Balram Singh, Advocate,
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Nitin Gupta, Advocate,
for respondent No.2.

SURESHWAR THAKUR, J. (ORAL)

1. The accused one Balram Gupta, Prem Lata Gupta and Roshan Lal Gupta became charged for commission of offences constituted under sections 406, 420, 421, 422, 425, 427 and 120-B IPC, as arose, from FIR No.139 dated 23.08.2003 registered at Police Station Division No.1, Jalandhar.

2. After conclusion of trial, for the afore-made charges, the learned Judicial Magistrate concerned, proceeded to make an order of acquittal upon co-accused No.1-Balram Gupta. However, since the other co-accused, inasmuch as, Prem Lata Gupta and Roshan Lal Gupta, died during the pendency of the proceedings, before the learned trial Magistrate concerned. Therefore the proceedings drawn against them were ordered to become abated, and, obviously no valid order of acquittal could be passed

upon them.

3. The Bank concerned as well as the State of Punjab became aggrieved of the afore-made decision, and, proceeded to challenge it, and, respectively instituted two separate appeals i.e. being Criminal Appeal No.194 of 2014 titled *The Manager Canara Bank v. Balram Gupta*, and, Criminal Appeal No.248 of 2014 titled *State v. Balram Gupta etc.*, before the learned Appellate Court. Both appeals arose from a common verdict, of acquittal made on 17.02.2014 by the learned Magistrate concerned. The learned Additional Sessions Judge, Jalandhar after allowing the afore criminal appeals proceeded to convict Balram Gupta, and, consequently, imposed consequent sentences thereafter upon him.

4. The solitary reason, which compels this Court, to draw a conclusion, that the challenge as made by convict Balram Gupta, upon, the conviction drawn on him, by the learned Additional Sessions Judge, hence being completely legally infirm, is grooved in the factum, that the petitioner herein as, disclosed in the judgment challenged before this Court, became proceeded against ex parte. The ex parte proceedings drawn by the learned Additional Sessions Judge concerned, against one Balram Gupta, is contrary to the basic tenets of procedural law, governing, and, regulating the drawing of criminal proceedings, before the criminal Courts of competent jurisdiction. There is no procedure contemplated in the Cr.P.C. rather carrying any mandate for either a criminal complaint being dismissed in default, or any of the accused concerned, upon theirs making, their non-appearances, before the criminal Courts concerned, theirs being proceeded against ex parte, inasmuch as, without any opportunity being

afforded to the accused concerned, to also ably defend themselves in the trial concerned, or thereafter in the appeal, adverse findings cannot be recorded against them by the courts concerned. Moreover the learned Appellate Court has without any services of a defence counsel being purveyed to the accused concerned, and thus precluding the accuseds' defence, and, has thereafter, also proceeded to make the untenable impugned order of conviction.

5. Consequently, the verdict of the learned Additional Sessions Judge concerned is quashed, and, set aside. The learned Additional Sessions Judge concerned, is directed to re-register in the appropriate criminal appeals register concerned, both the criminal appeals supra, and, thereafter, is directed to, after giving a valid representation to one Balram Gupta, hence proceed to record a fresh decision, in accordance with law, upon, the appeals concerned.

6. The petition stands disposed of.

7. All the pending applications are also disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

December 20, 2021
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No