

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

CRM-20740-2015 in/and
CRA-S-2940-SB-2015 (O&M)
Reserved on : 11.10.2022
Date of decision: 04.11.2022

SatpalAppellant

versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Vivek Singla, Advocate
for the applicant/appellant.

Mr. Amit Shukla, A.A.G., Punjab.

NAMIT KUMAR, J.

CRM-20740-2015

This application has been filed under Section 5 of the Limitation Act, 1963 regarding condonation of delay of 1724 days in filing the present appeal.

The contents of the application are reproduced as under:-

- “1. That the above said appeal was filed on 3.4.2014 before this Hon'ble Court within time.
2. That however, the above said appeal was returned on 22.4.2014 by the Registry of this Hon'ble Court by raising certain objections.
3. That thereafter the paper book of the abovesaid appeal was misplaced in the office of the undersigned counsel and after making various efforts, the paper book was traced on 20.2.2015. Thus, the delay of 1724 days in filing the present appeal has been occurred.
4. That the delay of 1724 days in filing the present appeal is not intentional or deliberate, but due to the aforesaid bonafide reasons.

It is, therefore, respectfully prayed that the present application may kindly be allowed and the delay of 1724 days in filing the present appeal may kindly be condoned, in the interest of justice.”

As per record, the facts given in the delay application are not correct in respect of the filing of the appeal. The appeal was initially filed on 03.04.2014 impugning the judgment dated 30.03.2010 after a delay of 1375 days and, thereafter, it was returned back with certain objections by the Registry and was re-filed on 23.02.2015 and the same was returned again by the Registry as earlier objections were not removed. Consequently, the same was again re-filed on 18.03.2015 and thereafter, on 25.04.2015. Further the reasons assigned therein for condonation of delay are not worth acceptance.

The decisions of the Supreme Court in following cases would be

relevant for deciding the present application:

'Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another', 2010 (5) SCC 459.

'Amalendu Kumar Bera and others Vs. The State of West Bengal' 2013 (2) RCR (Civil) 534.

'State of Nagaland Vs. Lipok Ao,' 2012 (3) RCR (Civil) 73: 2012 (2) Recent Apex Judgments (RAJ) 482: 2012 (5) SCC 157.

'P.K. Ramachandran Vs. State of Kerala & Another,' 1997 (4) RCR (Civil) 242: AIR 1998 SC 2276.

The law is well settled that the delay cannot be condoned mechanically.

There is also no explanation whatsoever worth given to explain this delay. In absence of any satisfactory explanation for condonation of delay, no case is made out for condoning the delay.

CRM stands dismissed.

However, this Court has heard the learned counsel for the applicant at great length and also inclined to decide the main case on merits:

CRA-S-2940-SB-2015

The instant appeal has been filed by appellant-Satpal, elder brother of the deceased, namely, Surinder Pal, challenging the judgment dated 30.03.2010 passed by the Court of learned Sessions Judge, Faridkot, whereby, the accused-Malkiat Singh, respondent No.2, has since been acquitted in a case bearing FIR No.86 dated 03.06.2006 under Sections 306/201 of the Indian Penal Code registered at Police Station City, Kotkapura.

Briefly stated the facts of the case are that on a complaint made by the appellant/complainant, the respondent was proceeded against, for the offence punishable under Section 306 of Indian Penal Code. On 03.05.2006, Police Station City ASI Jagdish Lai Kotkapura received a telephonic message from police station Cantonment Bathinda intimating

that deceased-Surinder Pal, who was admitted at Adesh Hospital, Barnala Road, Bathinda on account of suicide by consuming poisonous substance, had died and acting on this information, the Investigating Officer along with other police officials went to the said Hospital and received intimation from the doctor as to the death of the patient, where the complainant-Satpal, brother of the deceased, met the police and made his statement, wherein the complainant submitted that he was a resident of Kotkapura and was a Veterinary Doctor and were two brothers. His other brother Surinder Pal, who was younger to him was a Commission agent at Purani Mandi. It is alleged that during intervening night of 02.05.2006/03.05.2006, he received a call from Savita Rani wife of Surinder Pal that the condition of Surinder Pal has worsened and he was vomiting and requested the complainant to rush immediately and the complainant went to his brother's house where he discovered smell of Celphos coming out of the vomits and asked his brother what he has done, to which Surinder Pal remarked that he was being tortured by Malkiat Singh son of Sardara Singh, owner of Shop No.67, new Dana Mandi, Kotkapura and has consumed Celphos tablets as Malkiat Singh has taken a blank cheque from his wife and in spite of the same, had been torturing and harassing him. The complainant detailed that he took his brother Surinder Pal in the car to the house of Doctor Paramjit Singh Sandhu where Hem Raj son Chanan Ram also arrived and seeing the deteriorating condition of Surinder Pal on the advice of Doctor Sandhu, Surinder Pal was taken to Adesh Hospital, Barnala Road, Bathinda, where he was given first aid, but could not save him resulting in death of Surinder Pal around 04.30 A.M. The complainant alleged that Surinder Pal has died due to torture and harassment suffered by him at the hands of Malkiat Singh

and was forced to consume Celphos tablets. The statement of the complainant was read out to him, who after admitting its correctness signed it, over which the Investigating Officer made endorsement and sent the *ruqa* through I PHC Mohinder Singh to the police station on basis of which formal FIR No.86 dated 03.05.2006, under section 306 IPC was registered with police station City Kotkapura and, thus, the investigations were set into motion against the accused/respondent No.2-Malkiat Singh.

The Investigating Officer after preparing inquest report made police request and handed over the dead body, which was identified by Hans Raj and Pawan Arora, to Head Constable Harbans Singh Oil Rajinder Kumar for post mortem examination. After post mortem examination, the dead body was handed over to the relatives and the Doctor handed over the Clothes of the dead body, which were prepared into a parcel, to the police officials accompanying the dead body and who handed over the same to the Investigating Officer, which were taken into police possession by means of a memo. The viscera of the dead body was dispatched to the Laboratory, SI Jagdish Lal- Investigating Officer, thereafter went to the place of occurrence at the house of the deceased in Kotkapura and inspected the same and took into police possession vomit stained Kurta and Payjama along with a suicide note from the bed room of the deceased and prepared the parcel of the clothes and the suicide note was prepared into a separate parcel and the said articles were taken into police possession through different memos. Rough site plan of the place of occurrence was also prepared. The statements of the witnesses were recorded and on return to the police station, the articles were deposited with the MHC. Accused Malkiat Singh was arrested on 04.05.2006 and was served with memos of arrest, grounds of arrest, memo

of examination, and memos of intimation and right to engage a counsel, which memos were signed by the accused and attested by the witnesses. On 06.05.2006 while in police custody, the accused was interrogated, who suffered a disclosure statement in the presence of the witnesses that he has kept concealed a cheque for a sum of Rs.3 lac in a wooden box at a shop about which only he knew and could get the same recovered. The statement was reduced into writing, which was signed by the accused and attested by the witnesses and on the basis of the same led the police party to the disclosed place and got recovered the article, which was taken into possession through a memo and rough site plan of the place of this recovery was also made. During the course of investigations on 19.05.2006, the Investigating Officer from the house of the deceased took the cheque book in question into police possession and from the office of Brij Mohan, Accountant of the deceased, took the register into police possession and recorded the statements of the witnesses. The investigating Officer took into police possession medical record and after the receipt of the reports of the Expert and on the completion of investigations, challan against the accused was presented in Court.

Since, the case was triable by the Court of Sessions, the Court of the learned Additional Chief Judicial Magistrate, Faridkot vide order dated 17.07.2006, committed the case to the Sessions and charges were framed vide order dated 11.08.2006 under Sections 306 and 201 of the Indian Penal Code against respondent No.2-accused, to which he pleaded not guilty and claimed trial.

The prosecution examined Baldev Parkash as PW-1 to establish the demand of money made by the accused to the deceased and Giani

Gurbachan Singh, Draftsman as PW-2 proved the scaled site plan of the place of occurrence as Ex.P-1. Through Jaswinder Singh as PW-3, the prosecution established the recovery of the dying declaration from the pocket of the shirt of the deceased and took into police possession these articles through memos as Ex.P-2 and Ex.P-3, proving Kurta M01, Payjama M02 and suicide note M03. Thereafter, the complainant-Satpal, brother of the deceased, testified as PW-4 proving his statement as Ex.P-4 and in his cross-examination was confronted with the cheque as Ex.D1. Mohan Lal as PW-5 witness of the disclosure statement of the accused proved the same as Ex.P-5 and memo as Ex. P-6 of taking into police possession the cheque Ex.DL Harcharan Singh, record keeper from Adesh Hospital, Bathinda as PW-6 proved the bed head ticket of the deceased as Ex.P-7 and Constable Jagsir Singh as PW-7 proved the handing over of the special reports and thereafter Head Constable Harbans Singh PW-8 proved the handing over of the dead body for post mortem examination and application for the same Ex. P-8, inquest report as Ex. P-9, receipt of handing over of the dead body as Ex. P-18 and memo of the clothes Ex. P-10 and detailed the arrest of the accused and formal memos as Ex. P-11 to Ex. P-15 served upon him and also proved memo of taking into police possession the blank cheques through memo through memo Ex. P-16 and the heap register through memo Ex. P-17 and thereafter, the prosecution examined Doctor Inder Deep Singh Sra from Civil Hospital, Bathinda as PW-9, who through his affidavit as Ex.P-19 proved post mortem report as Ex. P-20, request for post mortem examination Ex.P-8, endorsement as Ex.P-21 and compliance report as Ex.P-22, letter as Ex.P-23, reports of the Chemical Examiner as Ex.P-24 and Ex.P-25. Thereafter, the Investigating Officer SI Jagdish Lal stepped into

the witness box as PW-10 and detailed his investigations proving documents statement of the complainant Ex.P-4, FIR as Ex.P-26, inquest report as Ex.P-9, request for post mortem examination as Ex.P-8, memo as Ex.P-10 whereby the belongings of the deceased were taken into police possession, memos as Ex.P-2 and Ex. P-3 vide which the parcel of Kurta and Payjama of the deceased and the suicide note were taken into police possession. He also proved the rough site plan as Ex.P-27, other formal memos as Ex.P-11 to Ex.P-15, disclosure statement as Ex.P-5, memo as Ex. P-6 vide which the cheque of Rs.3 lac was taken into police possession, rough site plan of the place of recovery Ex. P-28, memo of cheque book as Ex.P-16 and memo as Ex.P-17 whereby the heap register and passport were taken into police possession. He also proved the incriminating articles Kurta MO1, Payjama MO2 and suicide note MO3. PW11 C-II Rajinder Kumar through his affidavit as Ex.P-26 led credence to the case of the prosecution and thereafter widow of the deceased Savita Rani testified as PW12 and in her cross examination admitted her signatures on the certified copy of the Judicial proceedings as Ex.D-2 and lastly Brij Mohan Accountant of the deceased as PW13 proved the heap register as Ex.P-27 and passport of the deceased MO3 and their taking into police possession through memo as Ex. P-17. After tendering the reports of Forensic Science Laboratory as Ex. P-18 and Ex. P-19, the prosecution closed its evidence.

Accused/respondent No.2 in his defence examined DW1 Hakam Singh to depose the fact that the cheque as Ex.D-1 for a sum of Rs.3 lac was issued by the wife of the deceased in favour of this witness and proved his application as Ex.D-5, power of attorney as Ex.D-6 and receipt of the deceased as Ex.D-7. Through DW-2 Pawan Kumar, Computer Clerk

Oriental Bank of Commerce, the accused proved the statement of account of Savita Rani wife of the deceased as Ex.D-9 and the statement of account of Hakam Singh as Ex.D-10 to show the credit of the cheque for a sum of Rs.3 lac in the account of Savita Rani and proved documents as Ex.D-9 to Ex.D-11 and thereafter, the accused closed his defence evidence.

That after examining the whole issue, the Court of the learned Sessions Judge, Faridkot, acquitted the accused/respondent No.2 vide judgment dated 30.03.2010 by recording the following findings:-

“11. This over all evidence, as discussed above does not stir the conscience of the Court that there was a dispute between the accused and the deceased as the very crucial document suicide note MO proved by means of Forensic Science Laboratory report Ex.P-18/A to be in the handwriting of the deceased, which comparison has been done on the basis of Heap register and the passport handed over to the police by the complainant side and a close look at this note shows that it is detailed therein, which is reproduced for better appreciation as 'Malkiat Singh ton dukhi ho ke apni jaan gawa riha han, kion ke blank cheque mere gharwali de nam te lai giya si, par phir bhi dukhi karda si', and shows that the accused Malkiat Singh through does not carry full particulars and even if assumed is the present Malkiat Singh, the accused before this Court, the dispute is that Malkiat Singh had taken blank cheque issued by his wife and in spite of which was harassing him. To the very query of the court learned Public Prosecutor could not show cause as to which are the blank cheques, which find mention in this slip M03 as the cheque proved before the Court as Ex.D-1, which is the bone of contention, as has been detailed above, is duly filled post dated cheque in the own hand writing of the deceased and rather DW1 Hakam Singh claims that there was a money dispute between him and the deceased and the cheque Ex. D1 around which the entire case of the prosecution revolves, is in the name of this very witness. There is not even an iota of evidence to show and establish the manner in which the accused intentionally abetted the deceased to commit suicide when nothing substantial and concrete has been put forth as to there was a money dispute between the accused and the deceased for which the accused intimidated and goaded the deceased for repayment of the loan and it was laid down that there could be no cause of incitement, as has been laid down in 1995 Criminal Law Journal, 893, 2005 (4) (Criminal), 525 (Kerala), 2003 (1) RCR (Cri) 329 (P&H) and 2003 (3) RCR (Cri) 56 (MP) (ibid) where reliance has been placed on a later Judgment of a Hon'ble Supreme Court view reported in 1995 Supp (3) SCC, 438, Swamy Prahaladdas V. State of M. P, where it has been held that in cases punishable under Section 306 of the Indian Penal Code, the prosecution has to establish that such person has abetted the commission of suicide unless the alleged act of an accused falls under any of the three categories as detailed in section 107 of the Indian Penal Code, the same would not tantamount to abetment and so is in 1994 Criminal Law Journal, 767 (MP) (ibid) and the fact that in the bed head ticket proved by PW6 Harcharan Singh as Ex.P-7 absence of detailed history of the circumstances under which the deceased committed

suicide to some extent create a doubt on the veracity of the prosecution version being not first in point of time. Seeking support from 2002 Criminal Law Journal, 432 (Rajasthan), State of Rajasthan V. Kesa wherein it has been held that in order to constitute abetment the abettor must be shown to have intentionally aided the commission of the crime and mere proof that the crime charged could not have been committed with interposition of the alleged abettor is not enough compliance with the requirements of section 107 of Indian Penal Code and further more in another view of our own Hon'ble High Court in 1998 (4) Recent Criminal Reports, 858, Jai Singfi Versus State of Haryana appreciating the realms of section 107 of IPC His Lordship has laid down that a person instigates another when he actively suggests or simulates him to do the act by any means or language direct or indirect whether it takes the form of express solicitation, or of hints, inspiration or encouragement and reverting back to the instant case, the material witness to this episode the complainant PW4 Sat Pal brother of the deceased is totally silent on the recovery of the slip M03 and even the wife of the deceased PW12 Savita Rani has not detailed the manner of this recovery of the suicide note and even if accepted on the face of it does not to the mind of this court instills any confidence or by what manner or by what means the accused has goaded the deceased to take such an extreme step and when the very story which forms basis of prosecution version as to any transaction between the accused and the deceased has not been tangibly established by any means, are matters, which further aggravate the doubt in the prosecution story.

12. Even if the very note of the oral statement of the deceased before his brother is re-considered does not fall within the ambit of section 32 of the Indian Evidence Act as the very essential requirements as to the cause of his death or the circumstances of such a transaction which resulted in his death, are not substantiated to the hilt. The very deposition of PW4 Sat Pal is contradicted by their own witness and relatives PW5 Mohan Lal who has negated the fact that Surinder Kumar (sic) did not disclose as to why he had consumed some thing to commit suicide or the sheer contradiction in cross examination of PW3 Jaswinder Singh as to the presence of PW5 Mohan Lal at the time of recovery of the note and the utter failure of the complainant to connect the blank cheques with the accused or lack of expression of the exact words of the deceased are matters which go to the roots of the case of the prosecution and the very element of the commission of the offence under section 306 IPC is totally missing. Moreover, one has to keep in mind that all the P.Ws are closely related to the complainant and being interested witnesses their testimonies has to be adjudged by touch stone of truth and bonafide and rather the defence evidence appears to this Court to be more reasonable, acceptable, natural and probable. There has been no evidence led on the record by the prosecution as to the commission of the offence under section 201 of Indian Penal Code, the manner or by what means the accused has tried to cause disappearance of the evidence of the offence so as to screen himself from this crime.

13. In view of the foregoing discussions detailed above, the prosecution story does not appear to inspire confidence or is truthful and the prosecution has, thus, miserably failed to discharge its initial onus of establishing its case against the accused to the hilt and, thus, giving benefit of doubt to the accused Malkiat Singh, he is acquitted of the charges so framed against him.”

Learned counsel for the appellant has submitted that

the prosecution has proved its case in all respects, the prosecution

witnesses, namely, PW-1-Baldev Prakash; PW-2-Giani Gurbachan Singh, Draftsman; PW-3-Jaswinder Singh; PW-4-Satpal, complainant, brother of the deceased; PW-5-Mohan Lal, have fully supported the case of the prosecution. The suicide note left by the deceased before his death also proved the case of the prosecution. Therefore, the learned Sessions Judge had committed an error in acquitted respondent No.2.

The learned counsel further submits that the learned Sessions Judge has failed to take note of the fact that the deceased was under constant threat and the accused was regularly threatening him for return of money and he forcibly took a cheque in the name of wife of the deceased, Savita Rani, which shows that clout used by the accused in driving deceased-Surinder Pal to commit suicide.

After giving my thoughtful consideration to the matter it may be noticed here that the learned trial Court considered the question as to whether the accused/respondent No.2 had abetted the suicide of Surinder Pal, brother of the complainant in the light of the provisions of Sections 107 and 108 of IPC and came to the conclusion that the offence under Sections 306/201 of IPC is not made out and discussed the statement of the prosecution witness-Baldev Prakash-PW-1 who claims that on 02.05.2006 around 06:00 PM he had seen and heard Malkiat Singh accused demanding money from the deceased. However, this witness has certainly not reproduced the exact words spelled out by the accused has vaguely suggested that the accused has told the deceased either to return the money or to die and he will be satisfied and the very cross examination of this witness shows that he kept mum and never disclosed it to the family of the deceased though accepts that his sister is married to the brother of the

deceased and when confronted with the purpose of his visit has been erratic in his stand and his statement has been recorded by the police as per Ex.PB on 03.05.2006 and accepts that even he did not disclose what he has seen to the complainant, brother of the deceased and claims to have got recorded his statement to the police before the arrival of Sat Pal and, thus, apparently does not carry much weight and credibility.

The learned Court below has also examined the statement of the most material witness i.e. PW-3-Jaswinder Singh who claims to have witnessed the recovery of suicide note (slip) M03 from the pocket of the shirt of the deceased, which was taken into police possession through memo as Ex.P-2 and the Kurta M01, Payjama M02 were taken into possession through memo as M03 and in his cross examination accepts that he was cousin of the deceased and accepts that the slip did not have any date and carried signatures in English and no where illustrates that the slip was in the hand writing of the deceased or bore his signatures quite alien to the stand of the prosecution. The Court below also considered the statement of PW-4, complainant-Satpal who tried to rake up the issue that the deceased prior to his death had told him that he was fed up from accused Malkiat Singh as he had obtained blank cheque in the name of his wife and even then used to harass him. This witness never put up the story of the suicide note or claimed that his brother told him so and in his cross examination has been confronted with the cheque in question as Ex.D-1 and accepts that the writing in the cheque was of his brother Surinder Pal and was in the name of Hakam Singh son of Barbara Singh for a sum of Rs.3 lac and which cheque as per the claim of the prosecution detailed by PW5 Madan Lal, was recovered as a consequence of disclosure statement of the accused as Ex.P-5

and taken into police possession through memo as Ex.P-6 and, thus, contradicting the prosecution version as to the story of the blank cheque. Further more, this witness accepts that it was signed by Savita Rani wife of the deceased and was a crossed cheque. As claimed by himself, the witness is the real brother of deceased living in the vicinity and accepts that he was not aware if the creditors were demanding money from his brother and goes to accept that a case under sections 406 and 420 of IPC has been registered against Savita Rani regarding money transactions and is unable to state if 35-40 creditors are demanding Rs.50 lacs from the family and accepts the close relations of the P.Ws with the family and Mohan Lal-PW-5 in his cross examination accepts that the mother of the deceased and the complainant was the sister of his wife and the most crucial admission by this witness is to the effect that the deceased and his wife were under heavy debt of different persons, who have moved applications to the police/ Deputy Commissioner/ Market Committee and the witness has been visiting the police station along with the deceased Surinder Pal on the fateful night why he consumed something to die when this witness claims that he was summoned to the house and is totally silent on the suicide note angle and accepts that even Surinder Pal did not disclose him as to why he consumed something to commit suicide.

Abetment has been explained by this Court in *Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh 2002 (2) RCR (Criminal) 687*, wherein it is observed that Section 107 I.P.C defines the abetment to mean that a person abets the doing of a thing if he firstly, instigates any person to do that thing; or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal

omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing.

Reference, in this regard, may further be made to ***Sohan Raj Sharma Vs. State of Haryana 2008(2) RCR (Criminal) 810***, wherein Hon'ble Apex Court has observed at page 811 that the offence of abetment is committed when the person abetting instigates any person to do that thing; (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) Intentionally aids, by act or illegal omission, the doing of that thing.

Further, in ***Labh Singh and others Vs. State of Punjab 2013(4) RCR (Criminal) 1016***, it has been held by this Court that in order to attract the penal provisions of Section 306 IPC, there should be a positive evidence on record that appellants have intentionally hatched a conspiracy or actually/actively aided and abetted in such a manner, leaving no option for victim to commit suicide, while holding further that each person's sensitivity and sociability pattern is different from the others and each person has his own idea of self esteem and self respect. Without a positive act on the part of the accused to instigate or aid in committing suicide, there cannot be any conviction. There has to be a clear *mens rea*, active participation or direct act and intention to provoke, incite or encourage to do an act by the accused, which led the deceased to commit suicide.

In view of above discussed settled proposition of law, if this Court go through the case in hand, there is no evidence, worth the name, which may prove that the accused persons, at any point of time, instigated the deceased to commit suicide or conspired for such suicide by the

deceased or aided the deceased intentionally in committing suicide.

Reference, in this regard, may be made to *Cyriac and another Vs. The S.I. of Police 2005(4) RCR (Criminal) 525* wherein it is observed that 'mens rea' has to be established on record to prove that the accused had abetted the suicide.

Reference is further made to *Ravinder Pal Singh Vs. The State of Punjab 2008(2) RCR (Criminal) 47*, it is observed that to prove the abetment for commission of suicide, it is to be proved that the words of gestures used by the accused so as to bring the person abetted, to such a stage and under such circumstances that he could think nothing more except to end his life and compelled by the circumstances to such an extent that he could do nothing else but to end his life.

To bring home the guilt of respondent No.2 under Section 306 IPC, the prosecution was required to lead some cogent and convincing evidence, but it failed to do so. Therefore, without any positive act on the part of respondent No.2 to instigate or aid in committing suicide; and in view of the report of the chemical examiner, he cannot be held guilty by a Court of law. In such circumstances, this Court on re appreciation of the evidence and having regard to the language of Section 306 IPC came to the conclusion that the prosecution evidence did not establish the ingredients of the relevant sections, and that there was no evidence to show that the accused/respondent No.2 was guilty of abetment.

In *Chandrappa and Ors. v. State of Karnataka, 2007 (4) SCC 415*, the following general principles regarding powers of the Appellate Court while dealing with an appeal against an order of acquittal were culled out:

- “(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
- (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.
- (3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.
- (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.
- (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

Keeping in view the above, the finding of acquittal recorded by the trial Court cannot be said to be erroneous, perverse or contrary to the material available on record. In fact there is no infirmity in the reasoning assigned by the trial Court for acquitting respondent No.2, this Court feels that learned Sessions Judge, Faridkot, has rightly passed the impugned judgment dated 30.03.2010, after appreciating the entire facts and circumstances of the present case as no other view was possible.

Accordingly, the present appeal is also dismissed with no order as to costs.

04.11.2022
Neha

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No