

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

**CRM-A No.604-2019 (O&M)
Date of decision : 23.08.2022**

State of Haryana

....Appellant

Versus

Madhu

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. R.K. Ambavta, Asstt. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

State seeks leave to appeal against the judgment of acquittal dated 27th of March, 2018. Along with leave to appeal there is an application seeking condonation of delay of 232 days in filing the appeal. The respondent was booked under FIR No.413 dated 14th December, 2015 registered for the offence punishable under Section 306 IPC and was put to trial. As per the prosecution, Raj Kumar (deceased) was married with respondent. They were living separately from the family of deceased-Raj Kumar. It is alleged that the deceased and his wife-the accused had come to parental village of the deceased wherein they used to quarrel. State Counsel claims that respondent used to give beatings to Raj Kumar and the complainant. The deceased many a time requested the accused not to raise quarrels. However, on 13th of December, 2015 the family members of the deceased found that deceased Raj Kumar had consumed poison owing to harassment at the hands of respondent. The respondent was put to trial.

The Court after appreciating evidence on record held that :-

“17. The material witnesses of the prosecution are not able to tell the details about day, month and year of the beating and another harassment. The allegations are general in nature. From the facts and circumstances of the case it appears that basically there was matrimonial dispute between deceased Raj Kumar and his wife Madhu who is accused in the case . But simply on account of matrimonial dispute the accused cannot be held liable for harassing / abetting the deceased Raj Kumar to commit suicide. There is no direct nexus between the act complained of and the effect of alleged abetment. In case of abetment of suicide prosecution is required to prove that the abetment to commit suicide was made by instigation, conspiracy, or intentional aiding. In this case the above said ingredients are missing. There is no active act or indirect act by the accused proved on the file which pushed the deceased into such position and led him to commit suicide seeing no other option. Reference can be made to Basti Ram vs State of Haryana and others 2016 (3) RCR (criminal) 767. Jagdish Singh vs State of Punjab and another 2016 (2) RCR (criminal) 352.

18. There is no evidence that accused ever taunted the deceased or instigated or goaded him so as to compel to finish his life Strained relations between husband and wife per se does not lead to abetment. If husband is so sensitive with his family life and decide to take his own life such an act will be his individual act and would not fall within the definition of abetment. No person can be convicted and sentenced for abetment unless there is a direct nexus between the act complained of and the effect of alleged abetment. Every action or every act will not come within the definition of

abetment of abettor Reference can be made to Mehro and another vs State of Punjab 1999 (2) CCJ 215.

2. I have heard Ld. State Counsel and have carefully gone through the evidence on record.

3. Counsel for the appellant has not been able to point out any infirmity in the order passed by the Trial Court. The issue w.r.t. jurisdiction of the Appellate Court in the case of acquittal stands settled by the Apex Court. In the case of **Sachchey Lal Tiwari vs. State of Uttar Pradesh, 2004 (4) RCR (Criminal) 698**, wherein it was held that -

*“11. There is no embargo on the appellate Court reviewing the evidence upon which an order of acquittal is based. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate Court to re-appreciate the evidence where the accused has been acquitted, for the purpose of ascertaining as to whether any of the accused really committed any offence or not. [See **Bhagwan Singh and Ors. v. State of Madhya Pradesh, 2002**]*

(2) RCR (Criminal) 593 (SC) : (2002(2) Supreme 567)]. The principle to be followed by appellate Court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.”

(emphasis supplied)

4. Further in the case of **Murugesan and others vs. State through Inspector of Police, 2013(1) RCR (Criminal) 791 (SC)** it was held that -

“16. A concise statement of the law on the issue that had emerged after over half a century of evolution since Sheo Swarup (supra) is to be found in para 42 of the report in Chandrappa & Ors. v. State of Karnataka, 2007(2) RCR (Criminal) 92 : 2007 (54) AIC 172 (SC) : 2007(1) Recent Apex Judgments (R.A.J.) 841 : 2007 (54) AIC 172 (SC) : 2007 (4) SCC 415. The same may, therefore, be usefully noticed below:

“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, re-appreciate 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.

(emphasis is ours)''

(emphasis supplied)

5. After hearing counsel for the appellant, I do not find any reason to interfere with the judgment passed by the Trial Court. Counsel for the petitioner has not been able to point out any evidence which was not appreciated by the Trial Court at the time of passing of the judgment of acquittal. Moreover, he has not been able to make out a case to show that the view taken by the Trial Court was not a possible and feasible view. It is settled law that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be accepted.

6. Consequently, the leave to appeal is declined.

August 23, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No