

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

CRM-A-363-2020 (O & M)
Date of decision: 27.07.2022

Hardeep Singh

....Appellant(s)

Versus

State of Punjab and another

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. R.K. Arya, Advocate,
for the appellant.

Mr. APS Gill, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The present appeal arises out of the order dated 30.08.2019 of acquittal of Satnam Singh passed by the Judicial Magistrate Ist Class, Gurdaspur in a complaint case filed by the appellant.

It is pertinent to notice that the complaint was not only filed against the said accused but also against his son Amarpreet Singh, who was declared as a juvenile and proceedings were sent to the Juvenile Justice Board, Gurdaspur vide order dated 16.03.2019. The proceedings against Gurmukh Singh abated on account of his death. The acquittal has been recorded by the trial Court mainly on the ground that it is a counter blast to the criminal proceedings, which had been instituted against the complainant by Manjit Singh s/o Satnam Singh, the respondent who had also lodged FIR No. 144 dated 24.07.2014 regarding the incident dated 21.07.2014 which took place at 9.45 p.m. It has been noticed by the trial Court that the appellant-complainant Hardeep Singh, when questioned during cross

examination, has shown ignorance regarding the said incident. It has also been noticed that there is delay as such regarding the incident which is stated to have happened on the evening of 21.07.2014 and the complaint was only filed on 14.08.2014 i.e. after a lapse of 22 days. The factum that CW-2 Jaswinder Kaur, who is the daughter-in-law of the appellant-complainant, also admitted the fact that an incident had happened whereby her husband was admitted in hospital, was also noticed and the enmity *inter se* the family since on an earlier occasion proceedings under Section 107/150 Cr.P.C. had also been initiated against the accused persons and they had been discharged by the SDM, Gurdaspur on 29.03.2016 (D-4). It is in such circumstances, the trial Court has come to the conclusion that the previous history and the litigation *inter se* is being concealed.

Other factors like that he was conscious and tried to cover up the fact of delay that he had got unconscious whereas he has signed on the medico legal report was also kept into account apart from the fact that the daughter-in-law Jaswinder Kaur and one Balkar Singh were also accompanying him but strangely they did not receive any injury at the hands of the opposite party. Resultantly, a finding has been recorded that the said witness Jaswinder Kaur and Balkar Singh were planted and interested witnesses being relatives of the complainant. It has also been noticed that juvenile Amarpreet Singh, whose matter had been referred to the Juvenile Justice Board, was also acquitted and similar finding has been recorded by another Presiding Officer that the complaint appears to be a counter blast to the FIR registered against the complainant and his son on the statement of Manjit Singh, brother of the juvenile. The evidence as such of Dr. Ranjan Singh CW-5 in the said case was also taken into consideration that the cut

as such which figured on the left tibia of the complainant was a superficial cut and the possibility of the same being on account of a friendly hand could not be ruled out. It is in such circumstances the benefit of acquittal has been granted by taking into account the fact that if two views are possible on the evidence, the one which is favourable to the accused is liable to be applied.

We have perused the record and also the judgment of the trial Court and are of the considered opinion that the findings which have been recorded are not suffering from any perversity and the evidence has been discussed in detail of all the witnesses. The reasoning which had been arrived at cannot be said to be suffering from any perversity which would warrant interference in the acquittal which has been rightly recorded. More so, keeping in view the fact that there is a history of litigation *inter se* the parties and, therefore, the factum of motive as such to falsely implicate the respondent herein would be apparent in order to save the complainant-appellant, who himself was charge sheeted on 19.01.2016 (Ex.D-14), which was thereafter amended on 23.01.2019 (Ex.D-13) in FIR No. 144 dated 24.07.2014. Thus, a finding which has been recorded that it is a case to counter the criminal prosecution which had earlier been initiated against the appellant-complainant cannot be said to be suffering from any illegality or infirmity which would warrant interference. Even otherwise, keeping in mind that there is a double presumption of innocence, once an order of acquittal had been recorded, we are of the considered opinion that no case is made out for interference in the findings of the trial Court.

Accordingly, application under Section 378(4) to grant leave to appeal is dismissed. We also do not find any reasonable grounds to

condone the delay of 111 days which has occurred in filing the application for grant of leave to appeal. Accordingly, the same also stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

27.07.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No