

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

258

**CRA-AS-45-2022
Date of decision: 29.03.2022**

SAUDAGAR SINGH

... Appellant

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Deepak Arora, Advocate for the appellant.

Mr. Karanbir Singh, Asstt. A.G. Punjab.

VINOD S. BHARDWAJ. J.(Oral)

1. The instant appeal has been filed against judgment dated 28.07.2016 passed by the Court of Additional Sessions Judge, Mohali in Sessions case No. 27 of 31.08.2015 instituted by order of committal dated 20.08.2015 passed in complaint filed by Saudagar Singh titled as "*Saudagar Singh versus Meenu and others*" bearing criminal complaint No.RT-7/26.11.2013/16.04.2014, acquitting the respondents No.2 to 5 for offences under Section 315, 316 and 120-B of the Indian Penal Code, 1860.

2. The brief facts of the case are that the complainant Saudagar Singh got married to respondent-accused Meenu against the wishes of her parents. As it was a run-away marriage and the complainant Saudagar Singh as well as Meenu anticipated threat to their life, a petition for seeking protection of life and liberty was also instituted before the High Court. After some time of their marriage, Meenu got pregnant and left for her matrimonial home to pay a visit to her parents. It is alleged that as the parents of Meenu were against the marriage itself, they got the foetus

terminated and leveled false and frivolous allegations against the complainant and members of his family. One FIR bearing No. 33 dated 06.06.2013 was also got registered under Sections 320, 376, 498-A, 315, 316, 506 and 511 of the IPC. It is alleged that it is in fact the respondents-accused who have in active connivance with each other, got the foetus aborted by placing false, incorrect and misleading facts to the doctor and that the attempt of the appellant to seek justice for the unborn child met with implication of the appellant in a false case.

3. The appellant himself stepped into the witness box as CW-1 and also examined Dr. Ritu Bassi as CW-3. All the respondents-accused were thereafter summoned to face trial vide order dated 01.11.2014. Since the offences in question were exclusively triable by the Court of Sessions, the case was committed vide order dated 20.08.2015.

4. In finding a *prima facie* case against the respondents-accused, a charge under Section 315, 316 and 120-B of the IPC was framed against them to which they pleaded not guilty and claimed trial.

5. To substantiate the charge, the prosecution examined Dr. Vijay Bhagat, Radiologist as PW-1; Dr. Ritu Bassi GMCH, Sector-16 as PW-2; complainant himself appeared as PW-3 and Constable Gurnam Singh appeared as PW-4. Statements of the respondents-accused were recorded under Section 313 Cr.P.C. and the entire incriminating circumstances were put to the respondents-accused to which they denied and pleaded innocence.

6. In their defence, the respondents accused examined Arvind Puri as DW-1; Mohinder Singh Chahal, Numberdar of village Mullanpur Garibdas as DW-2; accused meenu as DW-3; accused Kamaljeet Kaur, as DW-4; Dr. Maninder Kaur, Medical Officer, Civil Hospital, Kharar as

DW-5 (wrongly numbered as DW-4),

7. Upon consideration of the respective evidence as well as the rival submissions advanced by the counsel for the respective parties, the Court of Additional Sessions Judge, S.A.S Nagar, Mohali came to a conclusion that it was a case of inevitable abortion with a history of bleeding and that the offence in question was not established. Not finding any cogent evidence that is adequate enough to secure conviction of the respondents-accused, the benefit was extended to the respondents-accused and they were acquitted of the charges framed against them. Hence, the present appeal.

8. Learned counsel appearing on behalf of the appellant has argued that the trial Court has not appreciated the evidence of PW-2 Dr. Ritu Bassi which established that Meenu was pregnant and was carrying a healthy foetus. It is urged that as per the deposition of Dr. Ritu Bassi, bleeding could have happened due to various reasons including intake of any medicines and as such, the circumstantial evidence clearly established that some medicine that occasioned bleeding was consumed by Meenu so as to cause termination of the foetus. It is also argued that as per the said doctor, when Meenu was checked by her, she was already in the process of abortion which clearly shows that some medicine had been consumed by the respondent-accused at home and thereafter she had been brought to the hospital for carrying out the abortion under the inevitable circumstances. He submits that as per the report of the ultra sound Ex.PW-1/B, the foetus was healthy with a 13 weeks gestation and there is nothing to determine as to what circumstances could have suddenly transpired to cause abortion. He also submits that the discharge Certificate of the Government Hospital reflects that the respondent-accused Meenu was having complaint of BPV for four days and

it was thus essential that she ought to have approached the Hospital on the very first day when the bleeding started. The delay in approaching the Hospital after four days was intentional as it left the doctor with no option but to carry out the abortion.

9. I have learned counsel for the appellant and have gone through the record of the case with their assistance.

10. Before delving into the merits of the case, it would be imperative to take note of the bare provisions for which the respondents-accused have been charged and were facing trial.

Section-315 and 316 of the IPC reads as hereunder:-

“315. Act done with intent to prevent child being born alive or to cause it to die after birth.—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.”

316. Causing death of quick unborn child by act amounting to culpable homicide.—Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

11. A perusal of the provisions shows that the following ingredients are required to be satisfied by the prosecution before a person can be charge-

sheeted for having committed the offences under the said provisions:

- (i) That the women was carrying a child/quick born child;
- (ii) That the person accused did an act before the birth of the child;
- (iii) That the act above was done within an intent thereby to prevent the child from being born alive or to cause it to die after its birth and;
- (iv) The circumstances under which the act was done were such that if it had been done after the birth of the child, the accused would be guilty of culpable homicide, if death occurred as a result thereof.
- (v) That the accused by doing such an act prevents the child from being born alive or to die after its birth and;
- (vi) That such an act was not in good faith for the purposes of saving the life of the mother.

12. The prosecution has led evidence to establish that the patient was pregnant and was carrying a live foetus with a gestation of 13 weeks. The report of the Radiologist establishes that the respondent-accused Meenu carried a healthy foetus on the date of examination i.e. 10.04.2013. The termination of the foetus is sought to be established through the evidence of PW-2 Dr Ritu Bassi, Medical Officer, GMCH, Sector-16, Chandigarh to depose that the respondent-accused Meenu was admitted in Hospital on 30.04.2013 at 12:15 A.M. and a dead foetus was expelled at about 2:00 A.M. In response to a suggestion put to her, she had replied that bleeding could happen on account of various reasons including intake of any medicine and that such a possibility could not be ruled out. The said Doctor also proved on

record the discharge certificate of respondent-accused Meenu as Ex.C2/A wherein it was clearly written that the respondent-accused Meenu was admitted with a history of four days of bleeding but there is no previous record of treatment or ultra sound. The consent form was signed by the mother. It is also deposed by the said Doctor that she could not find whether foetus was alive or dead as the patient was already in the process of an inevitable abortion. She further declined to give any opinion as to whether the said abortion had occurred due to intake of medicine.

13. In so far as the deposition of the appellant-complainant Saudagar Singh is concerned, the same is not in the nature of establishing a factum of the marriage and that the respondent-accused Meenu was pregnant with his child. The rest of the deposition was a reiteration of the allegations reproduced in the preceeding paras.

14. It is also stated by him that the respondent-accused Meenu had conceived twice and that her first pregnancy was also terminated. He had although alleged that the said termination had occurred due to a scuffle between Meenu and her mother Dalbir Kaur.

15. Respondent-accused Meenu also appeared as a witness and had deposed that her first pregnancy was terminated on account of the kick blow given by the appellant-complainant Saudagar Singh on her stomach and that after the said termination she was advised not to conceive immediately, however, the appellant-complainant disregarded the medical advice resulting in the accused Meenu getting pregnant again. She leveled allegations against the appellant-complainant Saudagar Singh and his family members caused beatings to her resulting in severe pain in her abdomen. He alleged that she was subjected to beating again on 05.04.2013 where after she manage to slip

away to her parental house. She was taken to the Civil Hospital, Kharar where she remain admitted for one week and was given up a pain killer. On 27.04.2013, she again developed severe pain in the abdomen and upon being taken to the Village Dispensary, she was advised to go to the Civil Hospital. She was taken to Civil Hospital, Phase VI, Mohali where various tests were conducted and it was diagnosed that she had infection in her abdomen. She further developed pain on 29.04.2013 and she was thereafter brought to the GMCH, Sector 16, Chandigarh in Ambulance along with Asha worker where she remained admitted for two days. The incident dated 05.04.2013 was corroborated by respondent-accused Meenu through the evidence of DW-5 Dr. Maninder Kaur who had conducted the medico-legal examination on the midnight of 06.04.2013 reporting the following injuries on her person:

- “1. Linear abrasions (multiple) present on the volar surface or the right forearm. Clotted blood present. Advised X-ray right forearm AP and lateral wound.*
- 2. Linear abrasions present on the Volar surface of the left forearm. Clotted blood present. Advised X-ray left forearm AP and lateral wound.*
- 3. Complaint of welling on the right side of force head. Pain present. Advised x-ray skull and forehead AP and lateral view.*
- 4. Date of last menstrual period 05.1.2013. Complaint of pain in the abdomen. Advised gynecological opinion.*

16. Occurrence of the termination of foetus is the foundation of commission of offence under Section 315 and 316 of the IPC. However, the same does not mean that a termination of the pregnancy for any reason would attract culpable & cognizance offences under Section 315 and 316 of

the IPC. It must necessarily be established & proved by the prosecution that the accused had carried out certain acts with an intent to prevent the birth of the child or to cause it to die after birth and that child had died as a result thereof, before a termination of foetus can be termed as being an outcome of an overt act attributable to the accused persons. A mere termination of the pregnancy does not necessarily amount to commission of a culpable and cognizance offence. Suspicion, howsoever grave, does not substitute the need of the prosecution to establish guilt of the accused persons beyond reasonable doubt. The respondent-accused has brought sufficient evidence to support that she was under medication since 06.04.2013 and has also pointed out about the medical complications prior to her conceiving the child which includes a premature termination of the first pregnancy. Apparently, she was under treatment and was taking medical advise/medication from the doctors and it cannot be said that there was no complication in the pregnancy. There is nothing on record to suggest that the respondents-accused persons had consumed or had administered any medicine as would cause the abortion of the foetus or may have escalated bleeding to cause abortion. A failure on the part of the accused to produce the relevant treatment chart cannot itself form the basis to conclude commission of an offence on the part of the respondent-accused. The burden to prove the charge is on the prosecution and such a burden cannot be shifted on an accused to prove his/her innocence.

17 As a matter of fact, apart from absence of any direct evidence, there is no circumstantial evidence as well. A mere factual aspect as regards termination of the pregnancy cannot be held to be a circumstantial evidence establishing offence under Section 315 or 316 IPC.

18. A mere response by the Doctor that bleeding can also be a result of intake of some medicine does not mean that the said fact stands proved. It is only one amongst various reasons that may cause bleeding but it is not the established reason, resulting in bleeding to have commenced on respondent-accused Meenu. Hence, there could be various other reasons including the circumstances prior to the conception of respondent-accused, her health condition as well as the earlier medical advise to not to conceive soon which may also be the factor amongst numerous other possibilities or probabilities. The appellant-complainant could not establish any overt act on the part of the respondent-accused that could have led to the start of bleeding, except suggestions and apprehensions. The same, even if accepted as probable, does not amount to establishing the guilt. The burden that falls upon prosecution does not stand discharged by creating a suspicion, rather, it gets discharged by proving the guilt beyond a reasonable shadow of doubt. The evidence adduced on record was deficient and insufficient to establish such guilt.

LEGAL POSITION IN APPEAL AGAINST ACQUITTAL

19. The same now leads to the scope of interference by the High Court while hearing appeal against acquittal. The Hon'ble Supreme Court has held in the matter of ***M. G. Aggarwal versus State of Maharashtra, AIR 1963 SC 200***, as under:

“(16) Section 423(1) prescribes the powers of the appellate Court in disposing of appeals preferred before it and clauses (a) and (b) deal with appeals against acquittals and appeals against convictions respectively. There is no doubt that the power conferred by clause (a) which deals with an appeal against an order of acquittal is as wide as the power conferred by clause (b) which deals with an appeal against an order of conviction, and so, it is obvious that the High Court's powers in dealing with

criminal appeals are equally wide whether the appeal in question is one against acquittal or against conviction. That is one aspect of the question. The other aspect of the question centres round the approach which the High Court adopts in dealing with appeals against orders of acquittal. In dealing with such appeals, the High Court ;naturally bears in mind the presumption of innocence in favour of an accused person and cannot lose sight of the fact that the said presumption is strengthened by the order of acquittal passed in his favour by the trial Court and so, the fact that the accused person is entitled to the benefit of a reasonable doubt will always be present in the mind of the High Court when it deals with the merits of the case. As an appellate Court the High Court is generally slow in disturbing the finding of fact recorded by the trial Court, particularly when the said finding is based on an appreciation of oral evidence because the trial Court has the advantage of watching the demeanour of the witnesses who have given evidence. Thus, though the powers of the High Court in dealing with an appeal against acquittal are as wide as those which it has in dealing with an appeal against conviction, in-dealing with the former class of appeals, its approach is governed by the overriding consideration flowing from the presumption of innocence. Sometimes, the width- of the power is emphasized, while on other occasions, the necessity to adopt a cautious approach in dealing with appeals against acquittals is emphasised, and the emphasis is expressed in different words or phrases used from time to time. But the true legal position is that however circumspect and cautious the approach of the High Court may be in dealing with appeals against acquittals, it is undoubtedly entitled to reach its own conclusions upon the evidence adduced by the prosecution in respect of the guilt or innocence of the accused. this position has been clarified by the Privy Council in Sheo Swarup v. The, King Emperor (1) and Nur Mohammad v. Emperor AIR 1945 PC 151.

(17) some of the earlier decisions of this Court, however, in emphasizing the importance of adopting a cautious approach in dealing with appeals against acquittals, it was observed that the

presumption of innocence is reinforced by the order of acquittal and so, "the findings of the trial Court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for (1) (1934) L.R. 61 1. A. 398. (2) A.I.R. 1945 P.C. 151, very substantial and compelling reasons": vide Surajpal Singh v. The State (1). Similarly in Ajmer Singh v. State of Punjab (2), it was observed that the interference of the High Court in an appeal against the order of acquittal would be justified only if there are "very substantial and compelling reasons to do so.") In some other decisions, it has been stated that an order of acquittal can be reversed only for "good and sufficiently cogent reasons" or for "strong reasons". In appreciating the effect of these observations, it must be remembered that these observations were not intended to lay down a rigid or inflexible rule which should govern the decision of the High Court in appeals against acquittals. They were not intended, and should not be read to have intended- to introduce an additional condition in clause (a) of Section 423 (1) of the Code. All that the said observations are intended to emphasise is that the approach of the High Court in dealing with an appeal against acquittal ought to be cautious because as Lord Russell observed in the case of Shoo Swarup, the presumption of innocence in favour of the accused "is not certainly weakened by the fact that he has been acquitted at his trial." Therefore, the test suggested by the expression "substantial and compelling reasons" should not be construed as a formula which has to be rigidly applied in every case. That is the effect of the recent decisions of this Court, for instance, in Sanwat Singh v. State of Rajasthan (2) and Harbans Singh v. The State of Punjab (4); and so, it is not necessary that before reversing a judgment of acquittal, the High Court must necessarily characterise the findings recorded therein as perverse. Therefore, the question which we have to ask ourselves in the present appeals is whether on the material produced by the prosecution, the High Court was justified in reaching the conclusion that the (1) (1952) S.C.R. 193, 201. (2) (1953) S.C.R 418 (3) (1961) 3 S C. R. 120. (4) (1962) Supp. I.S.C.R 104. prosecution case against the appellants had

been proved beyond a reason-able doubt, and that the contrary view taken by the trial Court was, erroneous. In answering this question, we would, no doubt, consider the salient and broad features of the evidence in order to appreciate the grievance made by the appellants against the conclusions of the High Court. But under Article 136 we would ordinarily be reluctant to interfere with the finding of fact recorded by the High Court particularly where the said findings are based on appreciation of oral evidence.

20. Further, the Hon'ble Supreme Court has held in the matter of ***Nagbhushan vs. State of Karnataka, (2021) 5 SCC 212***, as under:

“7.2 Before considering the appeal on merits, the law on the appeal against acquittal and the scope and ambit of Section 378 Cr.P.C. and the interference by the High Court in an appeal against acquittal is required to be considered.

7.2.1 In the case of Babu v. State of Kerala (2010) 9 SCC 189, this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 Cr.P.C. In paragraphs 12 to 19, it is observed and held as under:

12. This Court time and again has laid down the guidelines for the High Court to interfere with the judgment and order of acquittal passed by the trial court. The appellate court should not ordinarily set aside a judgment of acquittal in a case where two views are possible, though the view of the appellate court may be the more probable one. While dealing with a judgment of acquittal, the appellate court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial court were perverse or otherwise unsustainable. The appellate court is entitled to consider whether in arriving at a finding of fact, the trial court had failed to take into consideration admissible evidence and/or had taken into consideration the evidence brought on record contrary to law. Similarly, wrong placing of burden of proof may also be a subject-matter of scrutiny by the appellate court. (Vide Balak Ram

v. State of U.P (1975) 3 SCC 219, Shambhoo Missir v. State of Bihar (1990) 4 SCC 17, Shailendra Pratap v. State of U.P (2003) 1 SCC 761, Narendra Singh v. State of M.P (2004) 10 SCC 699, Budh Singh v. State of U.P (2006) 9 SCC 731, State of U.P. v. Ram Veer Singh (2007) 13 SCC 102, S. Rama v. S.Rami Reddy (2008) 5 SCC 535, Aruvelu v. State (2009) 10 SCC 206, Perla Somasekhara Reddy v. State of A.P. (2009) 16 SCC 98 and Ram Singh v. State of H.P. (2010) 2 SCC 445)

13. In Sheo Swarup v. King Emperor AIR 1934 PC 227, the Privy Council observed as under: (IA p. 404) "... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses."

14. The aforesaid principle of law has consistently been followed by this Court. (See Tulsiram Kanu v. State AIR 1954 SC 1, Balbir Singh v. State of Punjab AIR 1957 SC 216, M.G. Agarwal v. State of Maharashtra AIR 1963 SC 200, Khedu Mohton v. State of Bihar (1970) 2 SCC 450, Sambasivan v. State of Kerala (1998) 5 SCC 412, Bhagwan Singh v. State of M.P(2002) 4 SCC 85 and State of Goa v. Sanjay Thakran (2007) 3 SCC 755)

15. In Chandrappa v. State of Karnataka (2007) 4 SCC 415, this Court reiterated the legal position as under: (SCC p. 432, para 42) "(1) An appellate court has full power to review, reappraise 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.”

16. In Ghurey Lal v. State of U.P (2008) 10 SCC 450, this Court reiterated the said view, observing that the appellate court in dealing with the cases in which the trial courts have acquitted the accused, should bear in mind that the trial court’s acquittal bolsters the presumption that he is innocent. The appellate court must give due

weight and consideration to the decision of the trial court as the trial court had the distinct advantage of watching the demeanour of the witnesses, and was in a better position to evaluate the credibility of the witnesses.

17. In State of Rajasthan v. Naresh (2009) 9 SCC 368, the Court again examined the earlier judgments of this Court and laid down that: (SCC p. 374, para 20) “20. ... an order of acquittal should not be lightly interfered with even if the court believes that there is some evidence pointing out the finger towards the accused.”

18. In State of U.P. v. Banne (2009) 4 SCC 271, this Court gave certain illustrative circumstances in which the Court would be justified in interfering with a judgment of acquittal by the High Court. The circumstances include: (SCC p. 286, para 28)“(i) The High Court’s decision is based on totally erroneous view of law by ignoring the settled legal position;

(ii) The High Court’s conclusions are contrary to evidence and documents on record;

(iii) The entire approach of the High Court in dealing with the evidence was patently illegal leading to grave miscarriage of justice;

(iv) The High Court’s judgment is manifestly unjust and unreasonable based on erroneous law and facts on the record of the case;

(v) This Court must always give proper weight and consideration to the findings of the High Court;

(vi) This Court would be extremely reluctant in interfering with a case when both the Sessions Court and the High Court have recorded an order of acquittal.” A similar view has been reiterated by this Court in Dhanpal v. State (2009) 10 SCC 401.

19. Thus, the law on the issue can be summarised to the effect that in exceptional cases where there are

compelling circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference.” (emphasis supplied)

7.2.2 *When the findings of fact recorded by a court can be held to be perverse has been dealt with and considered in paragraph 20 of the aforesaid decision, which reads as under:*

“20. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. The finding may also be said to be perverse if it is “against the weight of evidence”, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. (Vide Rajinder Kumar Kindra v. Delhi Admn (1984) 4 SCC 635, Excise and Taxation Officer-cum-Assessing Authority v. Gopi Nath & Sons 1992 Supp (2) SCC 312, Triveni Rubber & Plastics v. CCE 1994 Supp. (3) SCC 665, Gaya Din v. Hanuman Prasad (2001) 1 SCC 501, Aruvelu v.State (2009) 10 SCC 206 and Gamini Bala Koteswara Rao v. State of A.P.(2009) 10 SCC 636).” (emphasis supplied)

7.2.3 *It is further observed, after following the decision of this Court in the case of Kuldeep Singh v. Commissioner of Police (1999) 2 SCC 10, that if a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with.*

7.3 *In the case of Vijay Mohan Singh v. State of Karnataka,*

(2019) 5 SCC 436, this Court again had an occasion to consider the scope of Section 378 Cr.P.C. and the interference by the High Court in an appeal against acquittal. This Court considered catena of decisions of this Court right from 1952 onwards. In paragraph 31, it is observed and held as under:

“31. An identical question came to be considered before this Court in Umedbhai Jadavbhai (1978) 1 SCC 228. In the case before this Court, the High Court interfered with the order of acquittal passed by the learned trial court on re-appreciation of the entire evidence on record. However, the High Court, while reversing the acquittal, did not consider the reasons given by the learned trial court while acquitting the accused. Confirming the judgment of the High Court, this Court observed and held in para 10 as under: (SCC p. 233) “10. Once the appeal was rightly entertained against the order of acquittal, the High Court was entitled to reappreciate the entire evidence independently and come to its own conclusion. Ordinarily, the High Court would give due importance to the opinion of the Sessions Judge if the same were arrived at after proper appreciation of the evidence. This rule will not be applicable in the present case where the Sessions Judge has made an absolutely wrong assumption of a very material and clinching aspect in the peculiar circumstances of the case.”

31.4. In K.Gopal Reddy v. State of A.P. (1979) 1 SCC 355, this Court has observed that where the trial court allows itself to be beset with fanciful doubts, rejects creditworthy evidence for slender reasons and takes a view of the evidence which is but barely possible, it is the obvious duty of the High Court to interfere in the interest of justice, lest the administration of justice be brought to ridicule.” (emphasis supplied).”

21. I find that there is no illegality or perversity in the judgment passed by the Additional Sessions Judge, S.A.S. Nagar, Mohali. The

present appeal is thus devoid of any merit and is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 29, 2022
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No