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

**CRR-2032-2018 (O&M)
DECIDED ON: 27th SEPTEMBER, 2022**

GHANSYAM

PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Shivroop Singh Dhaliwal, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The instant revision petition has been filed against the judgment dated 10.01.2018 passed by learned Additional Sessions Judge, Rewari, whereby the appeal filed against judgment of acquittal dated 21.09.1999 passed by the learned Judicial Magistrate Ist Class, Rewari has been dismissed as withdrawn.

Learned counsel for the petitioner contends that the appellant is an illiterate person and made the statement for withdrawal of the appeal before the Appellate Court without knowing consequences of same.

From perusal of file, it is evident that there is a delay of 18 years in filing the appeal against the order of acquittal, which is unexplained. The appeal filed by the complainant against the order of acquittal was dismissed as withdrawn.

Considering the fact that the appeal was filed in the year 2017 i.e., after the Cr.P.C. (Amendment) Act of 2005 and there was a delay of more than 18 years thus, the statutory provision in the Code has made it very clear in this regard that an appeal against an order of acquittal passed by the Magistrate in respect of a cognizable or non-cognizable offence filed on a police report can be filed before the Court of Session only and no remedy lies with this Court.

Sub-Section (4) of Section 378 Code of Criminal Procedure, 1973 (for short 'Code') makes it clear that a private party can challenge an order against acquittal by way of an appeal in the High Court, after obtaining special leave to appeal for the order of acquittal from the High Court, only if the case was instituted upon complaint. However, the case in hand was instituted on a police report/FIR, therefore, an appeal from the order of acquittal passed by the trial Court could not lie before this Court.

Furthermore, Section 482 of the Code makes it apparent that the High Court lacks the competence to supersede statutory provisions of law where a remedy is provided for in those provisions. As a result, the High Court is not permitted to go beyond its authority in order to assist the petitioner in accessing a remedy of his choosing that would not otherwise be available to him.

The Apex Court in **Sheetala Prasad v Sri Kant, AIR 2010 SC 1140** held that the revisional jurisdiction can be exercised by the High Court at the instance of private complainant – (1) where the trial Court has wrongly shut out evidence which the prosecution wished to produce; (2) where the admissible evidence is wrongly brushed aside as inadmissible; (3) where the trial Court has no jurisdiction to try the

case and has still acquitted the accused; (4) where the material evidence has been overlooked either by the trial Court or the Appellate Court or the order is passed by considering irrelevant evidence; and (5) where the acquittal is based on the compounding of the offence which is invalid under the law.

In view of the above, this Court is of the considered opinion that the case-in-hand finds no such provision relevant for the maintainability of the present revision petition in the High Court. Further, there being no miscarriage of justice the revision power of the High Court does not stand in way.

Accordingly, the present petition stands dismissed on the ground of maintainability.

**SANDEEP MOUDGIL
JUDGE**

27th SEPTEMBER, 2022.

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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |