

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2371 of 2019(O&M)
Date of Decision:08.12.2022

Yadwinder Singh

.....Applicant-appellant

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr.Gautam Dutt, Advocate
for the applicant.

LISA GILL, J(Oral).

Applicant seeks leave to appeal against judgment dated 25.03.2019, passed by the learned Judge, Special Court, Mansa, whereby respondents no.2 and 3 have been acquitted of the charge under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, framed against them.

Applicant, is admittedly the Investigating Officer in FIR No. 54 dated 24.07.2010, which was registered against respondents no.2 and 3.

Learned counsel for the applicant is unable to deny that applicant is not a victim in this case, though it is submitted that applicant is entitled to file this application, because respondents no.2 and 3, after their acquittal, filed a complaint under Sections 392, 398, 356, 341, 506 IPC

against the applicant and the applicant stands convicted for the abovesaid offences. The applicant, it is submitted has filed CRA-S-1193 of 2019, titled ‘Yadwinder Singh Vs. State of Punjab’ before this High Court, challenging his conviction. Said appeal is pending adjudication.

In view of the subsequent developments, it is contended that the applicant is entitled to file this appeal.

We have heard learned counsel for the applicant and have gone through the file with his able assistance.

Section 378 Cr.P.C., provides for appeal in the case of acquittal and reads as under:-

“378. Appeal in case of acquittal.

(1) Save as otherwise provided in sub- section (2) and subject to the provisions of sub- sections (3) and (5), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court² or an order of acquittal passed by the Court of Session in revision.]

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub- section (3), to the High Court from the order of acquittal.

(3) No appeal under sub- section (1) or sub- section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave

to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub- section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If in any case, the application under sub- section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub- section (1) or under sub- section (2).”

It is further provided in Section 372 Cr.P.C., that no appeal from any judgment or order of a criminal Court can be filed unless as provided under the Act. Section 372 Cr.P.C., reads as under:-

“372. **No appeal to lie, unless otherwise provided.** No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or any other law for the time being in force.

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

It is a matter of record that applicant is the Investigating Officer in FIR No. 54 dated 24.07.2010, which was registered against respondents no.2 and 3. Said respondents have been acquitted by the learned Judge, Special Court, Mansa, of the charges framed against them while holding that the prosecution has utterly failed to prove the charges against the said respondents beyond shadow of reasonable doubt. Therefore, benefit of doubt was afforded to the accused therein, who were acquitted of the charges.

Applicant is not a victim aggrieved by judgment dated 25.03.2019. Merely, because the applicant has been convicted in a private complaint filed by respondents no.2 and 3, he cannot be put in the category of a victim. Thus, this application is dismissed as not maintainable.

Needless to say, applicant is at liberty to raise all available pleas in the pending appeal filed by him challenging his conviction in the complaint instituted by respondents no.2 and 3. It is further clarified that this order shall have no bearing on the appeal, if any, filed by the State challenging acquittal of respondents no.2 and 3.

**(LISA GILL)
JUDGE**

**(RITU TAGORE)
JUDGE**

December 08, 2022.
s.khan

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