

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1158-MA-2018
Date of Decision: 14.12.2023

RANJODH SINGH

...Applicant-Appellant

Versus

HARBHAJAN SINGH AND ORS.

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jagdish Singh Mahal, Advocate
for the applicant-appellant.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant application under Section 378(4) Cr.P.C is preferred against the order of acquittal dated 18.12.2017 passed by learned Judicial Magistrate Ist Class, Gurdaspur vide which the present respondents have been acquitted in Criminal Complaint No. COMI/1163/2014 dated 07.10.2013 filed under Sections 452, 323, 148, 149 of IPC.

2. The minimal facts as necessary for disposing this application are that due to some previous quarrel between the applicant and respondent no.4, on 14.11.2012 respondents no. 2 to 5 entered the house of applicant in order to teach him a lesson. In this episode, respondent no.2 gave a blow on the right side of his head with reverse side of a datar, respondent no. 3 gave the second blow with his dang on applicant's back. Due to this commotion, brother and sister-in-law of the applicant came out from their house to help him but were held from their hair and thrown to the floor by respondent no.3 and other co-accused. Then respondent no.4 gave datar blow to brother of the applicant which hit him on his left-hand thumb and respondent no.5 gave a dang blow on his right shoulder. When mother and sister-in-law of the applicant came

forward to save them, they were thrown on the ground by respondent no.4's mother(co-accused) along with other co-accused. When they shouted for help, all the said accused ran away from the spot with their respective weapons. Thereupon, all the said injured were taken to the hospital, where they were medico-legally examined. The whole incident was reported to police and even an FIR No. 124 dated 19.11.2012 was lodged at Police Station Ghuman Kalan but when police did not take any action, the applicant filed the said criminal complaint.

3. Having heard the learned counsel for the applicant-appellant and after perusing the record with his able assistance, it is clear that there are material contradictions in evidence led by the applicant before the learned trial Court. Furthermore, the brother of the applicant never came forward to depose before the learned trial Court and no independent witness was examined by the applicant. Even the ocular evidence was not corroborated by the medical evidence on record. The investigating agency also found the allegations levelled by the applicant to be false. Therefore, the learned trial Court has correctly acquitted respondent no. 2 to 5 of the charges framed against them.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and others Vs. State of Karnataka, Criminal**

Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P.,

1973 (2) SCC 808 and **Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit** and others CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

(HARPREET SINGH BRAR)
JUDGE

14.12.2023

Ajay Goswami

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No