

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-A-760-MA-2015(O&M)
Date of Decision:16.12.2023

ABDUL LATIF

...APPLICANT

Versus

STATE OF PUNJAB & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr.Mohd. Salim, Advocate for the applicant-appellant.

Ms. Navreet Kaur Barnala, AAG Punjab.

Mr. Satyendra Chauhan, Advocate for
Mr. P.S. Khurana, Advocate for respondent no.2.

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HARPREET SINGH BRAR, J. (ORAL)

CRM-14581-2015

This is an application seeking condonation of delay of 136 days in filing the accompanying application under Section 378(4) of Cr.P.C.

For the reasons mentioned in the application, the same is allowed and delay of 136 days in filing the aforesaid application is condoned.

CRM-A-760-MA-2015

This instant application under Section 378(4) CrPC is preferred against the order of acquittal dated 19.09.2014 passed by learned Additional Sessions Judge, Sangrur vide which, two appeals i.e., Criminal Appeal No.82 of 06.06.2012 and Criminal Appeal No.89 of 30.07.2012 were decided and respondent no.2 was acquitted. The said appeals were filed by respondent no.2 against conviction and the applicant-appellant for enhancement of sentence

respectively against the common order dated 17.05.2012 passed by the learned Court of Sub Divisional Judicial Magistrate, Malerkotla in Criminal Complaint no.36 of 08.09.2004, whereby, respondent no.2 was convicted under Sections 468, 420 read with Section 120-B of IPC.

2. The minimal facts as necessary for disposing this application are that the above-said complaint was filed by the applicant against respondent no.2 and three other co-accused. The main contention was that respondent no.2 along with other co-accused sold the truck bearing no. PJI-899, belonging to the applicant to Mohinder Singh without his knowledge and by forging documents of the said truck (affidavit and form no.29) and also embezzled the sale consideration therefrom. Thereby, respondent no. 2 along with other co-accused cheated the complainant by hatching a criminal conspiracy and caused wrongful loss to the applicant by forging his signatures.

3. Having heard the learned counsel for the applicant-appellant and after perusing the record with his able assistance, it is clear that after diligent appreciation of the complete evidence on record, the learned trial Court has correctly observed that the applicant had failed to prove chain of evidence so as to lead to conclusion that respondent no.2 and the other co-accused committed forgery of the documents in question and transferred the truck to Mohinder Singh (accused no.4). Moreover, as per handwriting expert's report, it was not proved whether applicant's signatures were forged by respondent no.2 and other co-accused qua the documents relating to the said truck. Furthermore, the alleged buyer (accused no.4) of the said truck was not examined. Therefore, the learned Court of Additional Sessions Judge, Sangrur has correctly set aside the

above-mentioned order of conviction against respondent no.2, thereby acquitting him.

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 point 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* bearing No. *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 has failed to point out any perversity or illegality in findings recorded by the first Appellate 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

December 16, 2023
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |