

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-30090-2021 in/and
CRM-A-268-2021 (O&M)
Date of Decision: 01.03.2023

State of Haryana

....Applicant-Appellant

Vs.

Umed Singh

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWANPresent: Mr. Ankur Mittal, Addl. A.G., Haryana, with
Mr. Saurabh Mago, A.A.G., Haryana and
Mr. Karan Jindal, A.A.G., Haryana,
for the applicant-appellant.

HARPREET KAUR JEEWAN, J.CRM-30090-2012

By this application, the applicant-appellant seeks condonation of delay of 85 days in filing the application seeking leave to appeal.

For the reasons mentioned in the application, which is duly supported by an affidavit of Dr. Ravinder Kumar, DSP, City Sonipat, sufficient cause is made out to condone the delay.

Consequently, the application is allowed and the delay of 85 days in filing the accompanying application seeking leave to appeal is hereby condoned.

CRM stands disposed of.

CRM-A-268-2020

1. State of Haryana has filed an appeal, as well as an application

under Section 378 (3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.'), for grant of leave to appeal against the judgment of acquittal dated 16.10.2019, passed by the Additional Sessions Judge, Sonipat, whereby Umed Singh (respondent herein) was acquitted in FIR No. 32, dated 20.01.2017, under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act'), registered at Police Station Kharkhoda, District Sonipat, by giving him benefit of doubt.

2. Prosecution story in brief is that on 20.01.2017 ASI Balwant Singh along with the police party was present at Delhi Chowk bye-pass, Kharkhoda, where he received a secret information that the respondent Umed Singh is coming from the side of Village Pipli and he is carrying '*Charas*'. On the basis of the said information, DDR was lodged by sending a report to the police station. ASI Balwant Singh (PW-4) along with police party started surveillance on the persons coming from Village Pipli. After some time, the respondent was seen coming from Village Pipli and he turned back on seeing the police party. On suspicion, he was apprehended and was found carrying a polythene bag. He disclosed his name as Umed Singh, son of Inder Singh, resident of Rohala at present Partap Colony, Kharkhoda. The respondent reposed his faith in the police party for carrying out his search when he was informed about his legal rights by issuing a notice under Section 50 of the Act. The search of the respondent led to recovery of 1 Kg and 40 grams of '*Charas*' from the polythene bag being carried by him but he could not produce any valid permit or licence. Two samples of 20 grams each were separated from the said contraband

and the samples as well as the remainder contraband were sealed with the sealed bearing impression 'SC' after converting them into separate parcels.

2.1 FIR was registered by ASI Rajpal (PW-6). He conducted the subsequent investigation by reaching at the spot. He recorded the disclosure statement of the respondent and thereafter, produced the accused and case properties before Inspector Pardeep Kumar (PW-8). After verifying the facts of the case, Inspector Pardeep Kumar affixed his seal of impression 'RP' on each parcel.

2.2 On 21.01.2017 the accused along with the case property was produced before the Judicial Magistrate in compliance of the provisions of Section 50-A of the Act. The Judicial Magistrate took out two representatives samples each weighing 5 gram and fixed her seal bearing impression 'DS'. After taking out the representatives samples, the remaining case property was found to be 934 grams and it was converted into the sealed parcels and sealed with two impression, i.e. 'RP' and 'DS'. Three sheets of impressions of sample seals were also prepared and case property was handed over to the investigating officer. Inventory of the case property was also prepared. The case property was handed over to the investigating officer.

2.3 The contents of the samples were found as '*Charas*' as per the report of the Forensic Science Laboratory, Madhuban, Karnal (PX). After completion of the investigation the '*Challan*' was presented before the Ilacqua Magistrate.

2.4 After supply of the copies of the report under Section 173 of the Cr.P.C. and the documents annexed therewith to the respondent, charge

under Section 20 of the Act was framed to which he pleaded not guilty and claimed trial.

2.5 In order to prove its case, prosecution examined 9 witnesses, i.e. EASI Rajbir Singh PW-1, Rohit Patwari PW-2, Constable Manish PW-3, ASI Balwant Singh PW-4, Constable Krishan PW-5, ASI Rajpal PW-6, Constable Naveen PW-7, Inspector Pardeep Kumar, PW-8 and Dr. Kavita Kamboj PW-9.

2.6 After recording the statement of the accused under Section 313 of the Cr.P.C. and hearing the learned counsel for the parties, the trial Court acquitted the respondent of the charge framed against him.

2.7 The trial Court granted the benefit of doubt to the accused and acquitted him while recorded the following reasons while acquitting him:-

(i) The compliance of the provisions of Section 50 of the Act was not made in letter and spirit as the notice (PW-4/B) given under Section 50 of the Act was defective. As per the said notice, the offer was made to the accused that he has a right to get his search conducted in the presence of a Gazetted officer or a Magistrate or the police officer. The provisions of Section 50 of the Act does not provide for an option to be given to the suspect for his search to be conducted in the presence of the police officer.

(ii) As per the prosecution case, ASI Balwant Singh (investigating officer) has himself lodged DDR No. 35, dated 20.01.2017, whereas, on the other hand, as per the prosecution story, ASI Balwant Singh was on patrolling

duty when he received a secret information and sent a report under Section 42 of the Act, on the basis of which the said DDR was lodged. Since the DDR was lodged by ASI Balwant Singh himself at 07:00 p.m. in such circumstances, it is highly doubtful that he was present at Delhi bye-pass, Kharkhoda and he apprehended the accused.

(iii) Seizure memo indicate the FIR number, whereas, FIR was registered at a later stage and at the time when seizure memo was prepared, FIR number was not known to the investigating officer.

(iv) As per the prosecution case and even as per the seizure memo (Ex. PW-4/D), the total contraband was 1 Kg and 400 grams. Out of which 2 samples of 20 grams were taken out, whereas, when the contraband was weighed before the Magistrate after taking out 2 representatives samples of 5 gram each, the contents of the residue were found as 934 grams. Hence, recovery was found doubtful.

(v) Lastly, no independent witness was joined by the police to corroborate the case of the prosecution.

On the basis of the aforesaid reasons, the prosecution case was found highly doubtful and benefit of doubt was granted to the respondent-accused.

3. Learned counsel for the State submitted that the recovery of the contraband has been fully proved by the testimony of PW-4 ASI Balwant Singh, PW-5 Constable Krishan Kumar, PW-6 ASI Rajpal and

PW-7 Constable Naveen. There was no tampering of the case property. The link evidence has also been proved and even as per the FSL report, the contents of the samples were detected as '*Charas*'.

4. Learned counsel for the State further submitted that proper notice under Section 50 of the Act is proved to have been served to the accused before conducting his search. In such circumstances, merely on the ground of non-joining of independent witness, the prosecution case should not have been disbelieved. The trial Court ought to have considered the provisions of Section 35 of the Act which raises a presumption of culpable mental state of the accused. The respondent accused was previously convicted involving recovery of 300 grams of '*Charas*' regarding which FIR No. 155, dated 29.03.2014, under Section 20 of the Act, registered at Police Station Kharkhoda, District Sonipat, was registered and he was sentenced to undergo rigorous imprisonment for 4 years and was also imposed fine of Rs. 40,000/-.

Raising the aforesaid contentions, counsel for the State submitted that the leave to appeal be granted and notice to the respondent be issued.

5. We have considered the aforesaid submissions and perused the paper-book.

6. It is a well settled principle of criminal jurisprudence that prosecution has to prove its case beyond shadow of doubts. No doubt as per the provisions of Section 35 of the Act there is a presumption of culpable mental state of the accused but the said presumption can only be raised when the recovery has been proved. The said Section reads as

under:-

“35. Presumption of culpable mental state.

In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation. In this section culpable mental state includes intention, motive knowledge of a fact and belief in, or reason to believe, a fact.

(2) *For the purpose of this section, a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.”*

7. We have gone through the prosecution evidence. Initial investigation was conducted by ASI Balwant Singh (PW-4). He has categorically stated that the 'Charas' weighing 1 kg and 40 grams was recovered from the accused. The recovery memo (Ex. PW-4/D) also reveals that weight of the total contraband was 1 kg and 40 grams; out of which 2 samples of 20 grams each were separated. As per the testimony of the second investigating officer PW-6 ASI Rajpal, he had produced the case property as well as the accused before the SHO. SHO Pardeep when appeared as PW-8 has categorically stated that on receiving telephonic information about the present case, he reached at the spot at about 09:00 p.m. where the second investigating officer (ASI Rajpal) handed over to

him the case file, accused, witnesses and 03 parcels of the case property, the weight of the same was 1 kg (remainder) and 2 samples of 20 grams each (i.e. total 1kg and 40 gram) i.e. 02 samples of 20 gram each and the 3rd parcel of the remainder case property weighing 1 kg. The report prepared by the SHO (Ex. PW-6/C) also indicate the quantity of the contraband as 1 kg remainder and 2 parcels of 20 grams each.

The order passed by the Sub-Divisional Judicial Magistrate, Kharkhoda (Ex. PW-6/D) reveals that though the case property was stated to be consisting 1 Kg and 40 grams but after separating 2 samples of 5 gram each when the case property was weighed and it was found to be 934 grams. The said order is reproduced as under:-

“Accused produced before the court in custody along with application for judicial custody of the accused for 14 days. Heard. Offence under Section 20 of the NDPS Act is triable by this Court. Pending investigating, he is remanded to judicial custody and now be produced before the Court on 04.02.2017.

Along with the accused, investigating officer has also produced the case property which is stated to be Charas as per the application. To prepare inventory under Section 52-A of the NDPS Act an application moved. Case property stated to be consisting of 1 kg 40 gram of Charas (with seal and cloth) stamped with SC/11, RP/1. The case property was weighed before me and was found to be 1 Kg and 4 grams along with the cloth and seals.

As per the application under Section 52-A of the NDPS Act, the police official has already taken out two samples of 20 grams each sealed with SC/7. One

sample seal of SC/1 and RP/1 was attached with each sample.

The case property was opened and two representative sample were taken out. Both the samples weighing 5 grams each were stamp of DS on each samples were affixed.

After taking out the representative samples, the remaining case property was then weighed which came out to be 934 grams. The case property was then sealed with two seals of RP and two seals of DS and six seals of SC. Three sheets of impressions of sample seals (i) DS/1 (ii) DS/1 and RP/1, (iii) DS/1 and RP/1 were also prepared. The case property/parcels weighing 934 grams, two samples taken out by the I.O weighing 20 grams each, two representative samples taken out before me and the three samples seal impression sheets prepared before me and two sample seals impression sheets brought by I.O. were then attested and signed by me.

*The case property by dealt was per law laid down by the Hon'ble Supreme Court in case titled **Union of India vs. Mohan Lal and others**. Inventory of the case property be prepared separately vide order of even date.*

In the application under Section 52-A of NDPS Act permission to take photographs is also sought. Heard. Allowed. Constable Manish, No. 623/SPT is present and took one photograph of the case property. His statement recorded separately. He is directed to develop the photograph as earlier as possible and hand over the same.”

(Emphasis applied)

Even the inventory prepared by the Sub-Divisional Magistrate (Ex. PW-7/A) reveals the same facts as mentioned in the aforesaid order.

8. The aforesaid evidence on record clearly indicate that a formality was done by recording the quantity of the contraband. The said formality was even further carried forward after the aforesaid order was passed by the SDJM. The case property was produced for destruction before the concerned officer and PW-6 ASI Rajpal has stated that on 18.02.2017 he moved an application (Ex. PW-6/E) to SDM Kharkhoda for destroying the case property. The copy of the register No. 19 is Ex. PW-6/F. The application Ex. P-6/E indicate that the total contraband is recorded as 1 kg and 40 grams including 2 parcels of 20 grams each and 2 representatives parcels 5 gram each. The Tehsildar, Kharkhoda, has passed the order dated 20.02.2017 “seen and destroy”. These circumstances clearly indicate that the quantity of the contraband was neither checked by the second investigating officer nor by the concerned SHO and nor by the SDM. Even the Tehsildar has not checked the correctness of the quantity at the time of passing the order of destruction. All these circumstances, causes a serious doubt in the proceedings carried out by the investigating officer.

9. Another dent has also been caused in the prosecution story by the contents of the DDR (Ex. PW-4/A) which reveals that ASI Balwant Singh has himself got recorded in the DDR No. 32, dated 20.01.2017, that he had received a secret information regarding the accused carrying contraband when he was present at the Delhi Chowk Kharkhoda bye-pass. Though when he appeared as PW-4 he had stated that he had sent the said information through Constable Naveen No. 209 upon which the DDR

No. 35 (PW-4/A) was lodged but the contents of the DDR (Ex. PW-4/A) clearly reveals that it is signed by him (Balwant Singh) ASI and even the wording of the DDR clearly indicate that it was recorded by the signatory himself making a record of the information available with him. It does not reflect that such an information has been recorded on the basis of an information received through Constable Naveen as stated by the witness during trial. This clearly indicate that after perusing the contents of the said DDR, the witness had tried to cover up the lapse by making an oral statement in the Court that he had sent the said information through Constable Naveen, whereas, the documents falsify the version of the witness. Hence, rightly observed by the trial Court that the Investigating Officer was not present at Delhi Chowk Kharkhoda bye-pass when the said information was received as there is no explanation how the DDR was registered by the said witness in the police station. These facts clearly indicate that a manipulation has been done in the documents prepared during investigation.

10. The aforesaid documentary contradictions are to be seen in the light of the defence taken by the accused in his statement recorded under Section 313 of the Cr.P.C. whereby he has alleged his false implication and he has categorically stated that on 20.01.2017 two police officials came to his '*Dhaba*' in civil dress and took lunch. They also took the lunch in packing for 05 persons and when he demanded the payment, they replied that they were police officials and refused to pay even a single penny and threatened to implicate him in a false case. On the same day after 2 hours, they again came to his '*Dhaba*' in police dress and he was falsely

implicated in the said case whereas no recovery has been made from him. They have also taken the CDR from the 'Dhaba' in which the aforesaid incident was recorded. The accused has also produced 'Numberdar' in his defence as DW-1, who has corroborated the said version.

11. In the light of serious irregularities having been found with regard to the weight of the contraband which was produced before the Magistrate Section 52-A of the Act considering twisted and manipulated contents of the DDR recorded by the investigating officer, we are of the considered opinion that the view taken by the trial Court does not require any interference.

12. The scope of an inquiry by an appellate Court with an appeal against the judgment of acquittal under Section 378 of the Cr.P.C. has been laid down by the Hon'ble Supreme Court of India in various judgments. In **Mohan @ Srinivas @ Seena @ Tailor Seena Versus The State of Karnataka** Law Finder Doc Id # 1923681, the Apex Court held as under:-

*“23. This court, time and again has laid down the law on the scope of inquiry by an Appellate court while dealing with an appeal against acquittal under section 378 CrPC, 1973. We do not wish to multiply the aforesaid principle except placing reliance on a recent decision of this court in **Anwar Ali and Anr. v. State of Himanchal Pradesh, (2020) 10 SCC 166:***

*When can the findings of fact recorded by a court be held to be perverse has been dealt with and considered in paragraph 20 of the aforesaid decision, which reads as under: (Babu case [**Babu v. State of Kerala, (2010) 9 SCC 189: (2010) 3 SCC (Cri) 1179**])*

"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.** [**Rajinder Kumar Kindra v. Delhi Admn.**, (1984) 4 SCC 635 :1985 SCC (L&S) 131] , **Excise & Taxation Officer-cumAssessing Authority v. Gopi Nath & Sons** [**Excise & Taxation Officer-cum-Assessing Authority v. Gopi Nath & Sons**, 1992 Supp (2) SCC 312] , **Triveni Rubber & Plastics v. CCE** [**Triveni Rubber & Plastics v. CCE**, 1994 Supp (3) SCC 665] , **Gaya Din v. Hanuman Prasad** 6 / 11 LAW FINDER Submitted By: Hon'ble Ms Justice Harpreet Kaur Jeewan PDF downloaded from the online archives of Chawla Publications(P) Ltd. [**Gaya Din v. Hanuman Prasad**, (2001) 1 SCC 501] , **Aruvelu** [**Arulvelu v. State**, (2009) 10 SCC 206 : (2010) 1 SCC (Cri) 288] and **Gamini Bala Koteswara Rao v. State of A.P.** [**Gamini Bala Koteswara Rao v. State of A.P.**, (2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372])"*

*It is further observed, after following the decision of this Court in **Kuldeep Singh v. Commr. of Police** [**Kuldeep Singh v. Commr. of Police**, (1999) 2 SCC 10: 1999 SCC (L&S) 429], 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. .*

14.3. In the recent decision of **Vijay Mohan Singh** [**Vijay Mohan Singh v. State of Karnataka, (2019) 5 SCC 436: (2019) 2 SCC (Cri) 586**], this Court again had an occasion to consider the scope of section 378 CrPC, 1973 and the interference by the High Court [**State of Karnataka v. Vijay Mohan Singh, 2013 SCC OnLine Kar 10732**] in an appeal against acquittal. This Court considered a catena of decisions of this Court right from 1952 onwards. In para 31, it is observed and held as under:

"31. An identical question came to be considered before this Court in **Umedbhai Jadavbhai** [**Umedbhai Jadavbhai v. State of Gujarat, (1978) 1 SCC 228: 1978 SCC (Cri) 108**]. In the case before this Court, the High Court interfered with the order of acquittal passed by the learned trial court on reappreciation 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:

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.'

31.1. In **Sambasivan** [**Sambasivan v. State of**

Kerala, (1998) 5 SCC 412: 1998 SCC (Cri) 1320], the High Court reversed the order of acquittal passed by the learned trial court and held the accused guilty on reappreciation of the entire evidence on record, however, the High Court did not record its conclusion on the question whether the approach of the trial court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. Confirming the order passed by the High Court convicting the accused on reversal of the acquittal passed by the learned trial court, after being satisfied that the order of acquittal passed by the learned trial court was perverse and suffered from infirmities, this Court declined to interfere with the order of conviction passed by the High Court. While confirming the order of conviction passed by the High Court, this Court observed in para 8 as under:

'8. We have perused the judgment under appeal to ascertain whether the High Court has conformed to the aforementioned principles. We find that the High Court has not strictly proceeded in the manner laid down by this Court in Doshi case [Ramesh Babulal Doshi v. State of Gujarat, (1996) 9 SCC 225 : 1996 SCC (Cri) 972] viz. first recording its conclusion on the question whether the approach of the trial court in dealing with the evidence was patently 7 / 11 LAW FINDER Submitted By: Hon'ble Ms Justice Harpreet Kaur Jeewan PDF downloaded from the online archives of Chawla Publications(P) Ltd. illegal or the conclusions arrived at by it were wholly untenable, which alone will justify interference in an order of acquittal though the High Court has rendered a well-considered judgment duly meeting all the contentions raised before it. But

then will this non-compliance per se justify setting aside the judgment under appeal? We think, not. In our view, in such a case, the approach of the court which is considering the validity of the judgment of an appellate court which has reversed the order of acquittal passed by the trial court, should be to satisfy itself if the approach of the trial court in dealing with the evidence was patently illegal or conclusions arrived at by it are demonstrably unsustainable and whether the judgment of the appellate court is free from those infirmities; if so to hold that the trial court judgment warranted interference. In such a case, there is obviously no reason why the appellate court's judgment should be disturbed. But if on the other hand the court comes to the conclusion that the judgment of the trial court does not suffer from any infirmity, it cannot but be held that the interference by the appellate court in the order of acquittal was not justified; then in such a case the judgment of the appellate court has to be set aside as of the two reasonable views, the one in support of the acquittal alone has to stand. Having regard to the above discussion, we shall proceed to examine the judgment of the trial court in this case.'

31.2. In *K. Ramakrishnan Unnithan* [*K. Ramakrishnan Unnithan v. State of Kerala, (1999) 3 SCC 309 : 1999 SCC (Cri) 410*] , after observing that though there is some substance in the grievance of the learned counsel appearing on behalf of the accused that the High Court has not adverted to all the reasons given by the trial Judge for according an order of acquittal, this Court refused to set aside the order of conviction passed by the High Court after having found that the approach of the Sessions Judge in recording the order

of acquittal was not proper and the conclusion arrived at by the learned Sessions Judge on several aspects was unsustainable. This Court further observed that as the Sessions Judge was not justified in discarding the relevant/material evidence while acquitting the accused, the High Court, therefore, was fully entitled to reappraise the evidence and record its own conclusion. This Court scrutinised the evidence of the eyewitnesses and opined that reasons adduced by the trial court for discarding the testimony of the eyewitnesses were not at all sound. This Court also observed that as the evaluation of the evidence made by the trial court was manifestly erroneous and therefore it was the duty of the High Court to interfere with an order of acquittal passed by the learned Sessions Judge.

31.3. In Atley [Atley v. State of U.P., AIR 1955 SC 807: 1955 Cri LJ 1653], in para 5, this Court observed and held as under:

'5. It has been argued by the learned counsel for the appellant that the judgment of the trial court being one of acquittal, the High Court should not have set it aside on mere appreciation of the evidence led on behalf of the prosecution unless it came to the conclusion that the judgment of the trial Judge was perverse. In our opinion, it is not correct to say that unless the appellate court in an appeal under section 417 CrPC, 1973 came to the conclusion that the judgment of acquittal under appeal was perverse it could not set aside that order.

It has been laid down by this Court that it is open to the High Court on an appeal against an order of acquittal to review the entire evidence and to come to its own conclusion, of course, keeping in view the well-established rule that the presumption of innocence of

the accused is not weakened but strengthened by the judgment of acquittal passed by the trial court which had the advantage of observing the demeanour of witnesses whose evidence have been recorded in its presence. 8 / 11 LAW FINDER Submitted By: Hon'ble Ms Justice Harpreet Kaur Jeewan PDF downloaded from the online archives of Chawla Publications(P) Ltd. It is also well settled that the court of appeal has as wide powers of appreciation of evidence in an appeal against an order of acquittal as in the case of an appeal against an order of conviction, subject to the riders that the presumption of innocence with which the accused person starts in the trial court continues even up to the appellate stage and that the appellate court should attach due weight to the opinion of the trial court which recorded the order of acquittal.

*If the appellate court reviews the evidence, keeping those principles in mind, and comes to a contrary conclusion, the judgment cannot be said to have been vitiated. (See in this connection the very cases cited at the Bar, namely, **Surajpal Singh v. State** [**Surajpal Singh v. State, 1951 SCC 1207: AIR 1952 SC 52**]; **Wilayat Khan v. State of U.P.** [**Wilayat Khan v. State of U.P., 1951 SCC 898: AIR 1953 SC 122**] In our opinion, there is no substance in the contention raised on behalf of the appellant that the High Court was not justified in reviewing the entire evidence and coming to its own conclusions.'*

*31.4. In **K. Gopal Reddy** [**K. Gopal Reddy v. State of A.P., (1979) 1 SCC 355: 1979 SCC (Cri) 305**], 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."

13. Even while considering the material on record in view of the ratio of the judgment of the Supreme Court in Mohan @ Srinavas @ Seena @ Tailor Seena's case (supra), we are of the considered opinion that the trial Court has rightly granted the benefit of doubt to the respondent.

14. Keeping in view the above we are of the considered opinion that the view which has been taken by the trial Court is a probable view and in the absence of any perversity since all evidence has necessarily been scanned and discussed, no case is made out for interference in the well-reasoned order passed by the trial Court.

15. Consequently, the present application seeking leave to appeal, as well as the main appeal is hereby dismissed.

Pending miscellaneous application(s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

March 01, 2023
nitin

Whether Speaking	Yes
Whether Reportable	No