

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

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CRR No.2964 of 2016 (O&M)

Date of Decision:- 07.12.2023

Jorawar Singh

...Petitioner

Versus

Harpreet Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr.S.S.Salar, Advocate
for the petitioner.

KULDEEP TIWARI, J. (Oral)

CRM-25915-2016

The instant application has been moved for condonation of delay of 03 days in filing the present revision petition.

For the reasons mentioned therein, Crl.Misc. application is allowed and delay of 03 days in filing the present revision petition is condoned.

CRR NO.2964 of 2016

1. The petitioner has challenged the judgment dated 25.08.2015, and order dated 06.05.2016, passed by the learned trial court concerned, vide which the respondents were acquitted of the charges, framed under Sections 452, 324, 148 and 149 of IPC, against them in FIR No.153 dated 28.10.2009, registered at Police Sation Sadar, Ahmedgarh.

2. The petitioner/victim having aggrieved with the judgment of acquittal (supra), preferred a statutory appeal before the First Appellate Court. However, he remained unsuccessful and the appeal preferred by the victim also met with the same fate, and vide order/judgment 06.05.2016, it was dismissed.

3. Having aggrieved with the judgment of acquittal (supra), which was passed by the learned trial Court concerned, and the judgment passed by the learned Appellate Court concerned, the victim/complainant preferred the present revision petition.

4. Learned counsel for the petitioner submits that the injured eye-witness was duly examined and he has fully supported the prosecution version, despite that the learned trial Court concerned, on conjectures and surmises, without even discussing the veracity and probative value of the evidence of injured/victim, erroneously granted the benefit of acquittal to the accused. Learned counsel for the petitioner further draw attention of this Court to the MLR of both the injured persons, to say that the medical record produced on record, was fully supported by the ocular testimony, led by the prosecution. Learned counsel for the petitioner also submits that the delay in getting the MLR, could not be considered as fatal, as the FIR was promptly registered.

5. Both the injured persons, were medico legally examined and as per the MLR, the complainant suffered the following injuries-

(a) An incised wound of 4 cm long with clear margin present on the outer aspect of right forearm, 11 cm below right elbow joint. Fresh blood is oozing out of the wound.

(b) An incised wound of 2 cm present on palmar aspect of upper 1/3rd of left little finger. Fresh blood is oozing out of the wound. Injury is bone deep with crepitations present. Advised X-ray left hand focus at little finger.

6. Whereas, Gurjant Singh son of Sant Singh suffered the following injuries:-

(a) *An incised wound of 3 cm long with clear margins present on the outer aspect of right forearm, 13 cm below right elbow joint. Fresh blood is oozing out of the wound.*

(b) *An incised wound of 4 cm with clear margin present on left forearm, out aspect, 16 cm above left wrist join. Fresh blood is oozing out of the wound.*

7. The allegations in the FIR, are that the accused person after forming unlawful assembly, criminally trespassed into the house of Harpreet Singh, and inflicted simple injuries to Jorawar Singh and Gurjant Singh with swords. In order to prove the allegations, Jorawar Singh was examined by the prosecution as PW4, and he fully supported the prosecution version and in the cross-examination, he admits that his brother Harpreet Singh @ Baba, filed a criminal case against Darshan Singh, and the same was cancelled. Therefore, the pendency of the previous litigation was duly admitted. So far as Gurjant Singh is concerned, though, he was examined in the witness box as PW10, however, he could not be cross-examined. Therefore, his evidence was not read by the Courts below. Further the MLR was proved by PW5-Dr. Rajesh Garg, and in his cross-examination he admits that the injuries could not occur due to the sword, but **rather the injuries are superficial in nature**. Therefore, both the Courts below have rightly held that the injuries which were inflicted, being superficial in nature and cannot be caused by a sword, which was alleged to be recovered from the accused-

respondent. Therefore, it is evident that the medical evidence does not corroborate the ocular testimony, rather they contradict each other. There is only one star prosecution witness i.e. the present petitioner Jorawar Singh. However, his evidence finds no support from the documentary evidence, and the learned trial Court concerned has not found his evidence to be trustworthy.

8. Hon'ble Supreme Court in ***Chandrappa vs. State of Karnataka, 2007(2) RCR (Crl.) 92*** laid down broad principles which are to be followed, while dealing with an appeal against an order of acquittal, which are as under:

“ (1) An appellate Court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court, based on the evidence before it, may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal

than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in

favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

9. On the touchstone of the law laid down by the Hon’ble Supreme Court, and in view of the above discussed propositions, this Court has examined the entire record with the able assistance of counsel for the petitioner. However, unable to find any perversity or illegality in the order of acquittal, passed by the learned trial Court concerned.

10. Hence, in view of the above, the present petition is dismissed.

(KULDEEP TIWARI)
JUDGE

07.12.2023
Amandeep

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