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2023:PHHC:153492

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

CRR-851-2014

Date of Decision: November 16, 2023

SATNAM SINGH

.....Petitioner

Versus

JOGINDRO AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Kanwaljit Kaur Dhillon, Advocate and
Mr. S.S. Rangi, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. H.S. Randhawa, Advocate for respondents No.1 and 2.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant revision is preferred against judgment dated 19.12.2013 passed by Additional Sessions Judge, Patiala whereby judgment of acquittal dated 21.11.2012 passed by Additional CJM, Patiala in complaint under sections 420,467,471,120B, 34 IPC registered at PS Julkan, District Patiala, was upheld.

2. Brief facts of the case are that Roop Singh got illegal mutations of property of one Balwant Singh to which he was not entitled. After his death, Roop Singh's legal representatives concealed this fact and in conspiracy with Halqa Patwari and Kanungo Ram Singh got mutation No. 687 sanctioned vide order dated 23.09.1991. The Halqa Patwari prepared a pedigree table which was to be verified by

Lambardar i.e. complainant-Ranjit Singh(since deceased). The complainant claim he did not place his left thumb impression on the pedigree table and that the same is forged.

3. Learned counsel for the petitioner contends that the Lambardar is required to appear before the Naib Tehsildar at the time of sanctioning the mutation but since the petitioner never verified the pedigree table, there was no question of his appearing before the Naib Tehsildar on 23.09.1991. He submits that Inderjit Singh, Handwriting and Fingerprint Expert was examined as CW2 in the trial Court who duly deposed that the disputed thumb impression does not match the standard thumb impression of the petitioner. However, his report was not considered as permission of the Court was not sought before embarking on this exercise. Learned counsel argues that the expert report must not be discarded merely because of a technical default as the same does not taint the report. He further contends that it was wrongly observed that the original mutation was never brought in Court as CW3-Sukhwinder Singh, Patwari presented the original mutation register containing the entry of mutation no. 687 on 11.09.2008 and proved the same. Furthermore, he argues that the delay of 10 years in filing the complaint is also explainable as the petitioner only found out about the forgery in 2002.

4. I have heard the learned counsel for the parties and perused the record with their able assistance.

5. A perusal of the record indicates that no application was made to the office of Sub Registrar, Patiala to allow for comparison of

thumb impressions of Ranjit Singh on the original mutation no. 687 dated 23.03.1991. The standard thumb impressions of Ranjit Singh to which the disputed thumb impressions were compared were also not taken in the presence of the accused as they were not summoned by the Court. Hence, there is no evidence on record to prove that the thumb impressions analysed and compared by CW2-Dr. Inderjit Singh, Handwriting and Fingerprint Expert, were in fact the disputed fingerprints on the original mutation and the standard signatures which were compared were in fact of complainant-Ranjit Singh. Furthermore, in cases of forgery, conviction cannot be based on expert opinion alone. Therefore, the opinion rendered by CW2- Dr. Inderjit Singh is of no value in the eyes of law.

6. Further, the alleged mutation dates back to 1991 while the complaint was made after a delay of about a decade in 2002. The record reflects that CW1-Gurmeet Kaur, daughter of Ranjit Singh is in civil litigation regarding land measuring 100 bighas with Respondent no.1-accused Jogindro, pending before this Court. Palpably, the only reason for the deceased-complainant Ranjit Singh to institute the present complaint was the pending civil litigation between his daughter and respondent no. 1, as he would not have suffered any wrongful loss due to the alleged occurrence. Even Sukhwinder Kaur and Amarjit Kaur, daughters of Roop Singh, who would have benefitted from the success of the case of the complainant, have never challenged the said mutation.

7. Curiously, Karam Singh and Beant Kaur have been made accused in the present complaint when they would have been 7 years and 10 years of age, respectively when the original mutation was sanction in the year 1991. It is improbable that children of such tender age could have a role to play in the alleged occurrence. They cannot be considered to have acted in connivance with the other accused as their criminal liability is negated by Sections 82 and 83 of IPC. As such, this Court does not find any perversity in the findings of the trial Court.

8. 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** passed 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.

9. A two Judge Bench of Hon'ble Supreme Court in case of **Chandrappa (supra)** has laid down the parameters with regard to the power of appellate Court while dealing with an appeal against an order of acquittal. Speaking through Justice C.K. Thakker, the following was held:

"42. From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) An appellate Court has full power to review, re-appreciate 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 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 emphasise 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."

10. In view of the facts and circumstances of the case, this Court finds that the defence has been successful in making serious

dent in the case of the prosecution and that the prosecution has miserably failed to establish its version beyond reasonable doubt. Learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. Resultantly, the instant revision petition is dismissed.

16.11.2023
tejwinder

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>