

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

**CRA-AD No.482 of 2019 (O&M)
Date of Decision:11.09.2023**

Puneet Gupta

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Nitin Thatai, Advocate
for the appellant.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal has been preferred against the judgment dated 15.05.2019 passed by the learned Additional Sessions Judge, Gurugram acquitting the accused-respondents No.2 to 16 in case bearing FIR No.273 dated 20.06.2015 registered under Sections 147, 148, 149, 452, 436, 307, 341, 332, 353, 427, 109, 506 IPC at Police Station Khaidki Daula, Gurugram.

FACTUAL BACKGROUND

2. Brief facts of the prosecution case are that on 20.06.2015, a telephonic message was received at Police Station Khaidki Daula whereby it was informed that a large number of workers had gathered at Orient Craft Company, Plot No.9, Khandsa and they were causing damage to the property of the company. On receipt of the said information, ASI Braham Parkash along with Constables Kamaljit, Ajit and HC Jagmal reached at the spot. The SHO along with his staff also reached at the spot. On seeing that the workers were setting ablaze and damaging the property of the company, ASI Braham Prakash along with other

police officials tried to make them understand for not causing damage to the property but they found it difficult to control them. Thereafter, more police force was called for at the spot. As more police force reached at the spot from nearby police stations, the agitated workers ran away from the spot. In the aforesaid incident, some of the police officials got injuries. One Punit Gupta, who was working as General Manager in the Orient Craft Limited submitted an application to the police authority that the said company had three plants in Khandsa wherein 7000-8000 workers were employed. On 20.06.2015 at about 9:30 AM, he received information that Pawan Kumar son of Prem Singh was electrocuted in goods lift of Plant No.9. Immediately, an ambulance was arranged and the said Pawan Kumar was admitted to Sunrise Hospital. After some time, a large number of workers including Brijesh, Shankar, Ajay, Kashi, Brahma Nand, Chander Pal and Ravinder had gathered in front of the canteen of the company and spread a rumour of death of Pawan Kumar. The officials of the company tried to make them understand but they were not ready to listen to any one. In the meanwhile, the workers were told that officials of the company would not admit that Pawan Kumar had died and therefore, the factory should be set on fire. The workers armed with *lathis* and *dandas* had started causing damage to the property of the company. Some of the workers had entered the premises of the company and set on fire the vehicles parked there. Another group of workers set ablaze the fabric store. The officials of the company took shelter in one of the rooms, which was also set on fire with an intention to kill them. They also caused damage to the furniture of the company. Police control room and fire brigade were informed and particulars of vehicles, which were set on fire, were given to the police. It was stated that the accused persons, who caused damage to the assets of the company,

may be identified with the help of CCTV cameras installed in the premises of the company and an appropriate legal action may be taken against them.

3. On receipt of said application, an FIR was registered and investigation was commenced. During the course of investigation, accused persons were arrested and on completion of investigation, final report under Section 173 Cr.P.C. was submitted before the Court.

4. Copies of final report under section 173 Cr. PC and documents attached thereto were supplied to the accused persons free of costs, as per the mandate of Section 207 Cr. PC.

5. On finding a *prima facie* case to have been made out against the accused persons, charges under Sections 147, 148, 149 IPC and 452, 436, 307, 341, 332, 427, 506 IPC read with Sections 149, 109 IPC were framed against them. Charge under Section 25 of the Arms Act was framed against accused Deepak son of Preet. The accused persons pleaded not guilty to the charges framed against them and claimed trial.

6. In order to prove its case, prosecution examined as many as 27 witnesses. After hearing the rival submissions and perusing the prosecution evidence, the trial Court came to the conclusion that the prosecution has not been able to establish the prosecution case beyond a reasonable shadow of doubt, which resulted in acquittal of the respondents No.2 to 16/accused. Thus, the present appeal is filed.

CONTENTIONS

7. Learned counsel for the appellant contends that the learned trial Court has not appreciated the evidence led by the prosecution properly and has erred in ignoring the sufficient and cogent evidence in the shape of testimonies of material witnesses, who had witnessed the alleged incident. PW-1 Puneet Gupta, who was

working as General Manager in the Orient Craft Limited at the time of occurrence, has categorically named accused-respondents No.2 to 16 in his application submitted to the police authority and duly identified them at the time of his deposition. Similarly, PW-5 Virender Pal Singh, PW-7 Vikram Saluja, PW-8 Anil Kumar and PW-9 Rattan Lal, who were employees of the Orient Craft Limited, have also supported the case of prosecution and made their categorical statements that their vehicles were set on fire by respondents No.2 to 16/accused. The learned trial Court ignored the testimony of PW-4 Pratyush Kumar Patnaik, who was working as Assistant Manager IT in the Orient Craft Limited and he had duly provided the CCTV footage of the entire incident, which took place on 20.06.2015 as Ex.PW4/A. The learned trial Court has also brushed aside testimonies of PW-14 Sanjay Arya and PW-21 Jagdish Bains. PW-22 SI Braham Parkash, who had conducted the investigation, has proved that the CCTV footage and the CD made of videography of the incident were taken into possession by him. As such, the ocular version was duly corroborated by the CCTV footage, however, this evidence was completely ignored by the trial Court.

8. Learned counsel for the appellant assails the impugned judgment of acquittal on the ground that the finding recorded by the learned trial Court is against the settled proposition of law and the evidence brought on record. The prosecution has been able to prove its case beyond a reasonable shadow of doubt and there is no reason for the complainant to falsely inculcate his own employees.

ANALYSIS AND OBSERVATION

9. We have heard learned counsel for the appellant and after having gone through the records of the case, we find that the finding of acquittal recorded by the trial Court is reasonable and logical. It is settled proposition of law that the finding of acquittal recorded by the learned trial Court cannot be disturbed merely

because another view is possible. If two views are possible, the one which favours the accused would invariably prevail over the other.

10. The Hon'ble Supreme Court has articulated the above principle in the following decisions:

a) A three Judge Bench of Hon'ble Supreme Court in **Kali Ram v. State of H.P., 1973 (2) SCC 808**, speaking through Justice H.R. Khanna, held as under:

“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted...”

b) A two Judge Bench of Hon'ble Supreme Court in **Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415** 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:

“35. 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, reappraise 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."

11. The perusal of the records indicates that PW-1 Puneet Gupta could not identify all the accused persons, who were responsible for the incident which took place on 20.06.2015 in the premises of the company. He made material improvements while appearing as a witness and was duly confronted with the initial application Ex.PA where he has not named respondent No.14/accused Saddam Hussain. He has not been able to pin point specific name of the person, who allegedly set on fire the property of the company and vehicles parked in its premises. The learned trial Court on the basis of his testimony has recorded a finding that PW1 Puneet Gupta has not been able to establish that the accused persons present in Court had committed the alleged offence or it were their co-workers, who had committed said illegal acts at the behest of the respondents-accused herein.

12. Similarly PW-2 Ravi Arora has not disclosed the name of any of the respondents-accused for causing damage to his car, which was parked in the

premises of the company. PW-3 Daya Nand Gupta had clicked the photographs and did videography of the alleged incident. He also could not disclose names of persons, who sabotaged the property of the company. PW-4 Pratyush Kumar Patnaik admitted in his cross-examination that the CD containing the CCTV footage did not indicate as to by whom said sabotage was committed and the CD is not correct regarding identification of any of the accused. However, PW-5 Virender Pal Singh has deposed that the car provided to him by the company was set ablaze by the mob consisting of labourers of the company. It is the consistent case of the prosecution that on 20.06.2015, workers of the company had committed riots and sabotage in the company premises because one of their co-worker namely Pawan got electrocuted and they were under the impression that he had died due to negligence of officials of the company. A mob consisting of 7000-8000 employees of the company had gathered and caused damage to the property of the company and vehicles belonging to some of the employees of the company. There are several discrepancies and inconsistencies in the evidence led by the prosecution, which do not inculcate any of the accused specifically. Moreover, there is no material on record to indicate the exact role played by each of the accused-respondents and the manner in which they had participated in the alleged incident.

CONCLUSION

13. In view of the discussion made in the preceding paragraphs, we are of the considered opinion that the finding rendered by the trial Court is based upon the correct appreciation of evidence and there is no perversity in the view taken by it. It is trite law that presumption of innocence further gets entrenched and fortified on his acquittal by the trial Court. Learned counsel for the appellant has failed to point out any perversity or illegality in the findings recorded by the learned trial

Court and therefore, we are unable to arrive at a different view than the one taken by the learned trial Court. We do not find any substantial and compelling reason or glaring mistake to unsettle the judgment of acquittal passed by the learned trial Court. As such, there is no merit in the present appeal and consequently, the same is dismissed.

(RAJ MOHAN SINGH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

September 11, 2023
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	Yes