

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-2740-2019

Date of Decision: 14.09.2023

Sadhu Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Addl A.G. Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition against the impugned judgment dated 10.07.2019 passed by the Court of Additional Sessions Judge, Bathinda, whereby, the respondents No. 2 to 5 were ordered to be acquitted of the charge.

2. As per the case of the complainant, the occurrence had taken place in two parts. As per the first version of the complainant, on 04.03.2009, he was present in his house alongwith his son Gurmail Singh and in the meantime, Nachhattar Singh and Pal Singh, both the accused entered his house and caused him injuries with the brick bats and abused him. Nachhattar Singh gave a brick blow on his forehead and Pal Singh gave a brick blow on the head of the complainant. The

complainant raised the noise to save him and on this Gurmail Singh and his son came to his rescue and saved him from the assailants. As per the version of the complainant regarding second occurrence, his son was taking him to the civil hospital on his motorcycle when they reached near the house of Pala Singh tailor at about 08.00 p.m., Nachhattar Singh armed with *Dang*, Pal Singh with Takua and Major Singh with stick waylaid them. Pal Singh gave a Takua blow towards the complainant and Gurmail Singh and they tried to evade the blow but it hit the headlight of their motorcycle, which got damaged. Complainant and his son fell. Pal Singh gave a Takua blow with intention to kill complainant on his head. Major Singh gave a stick blow and kick blow on the person of Gurmail Singh. On their alarm, accused ran from the spot after threatening them. Motive behind the occurrence was that complainant belongs to the congress party whereas, accused belong to Shiromani Akali Dal.

3. The respondents also involved the petitioner in the proceedings under Sections 107/151 Cr.P.C. The petitioner and his son were got admitted in civil hospital Bathinda by Balwant Singh and the matter was reported to the police at about 10.00 a.m., but the police did not take any action in spite of the fact that the petitioner had suffered four injuries. At about 10.00 a.m., on the next day, one police official came to the petitioner/complainant and asked him to compromise the matter with the opposite party. On 08.03.2009, the

signatures of the petitioner were taken on blank papers and vide report No. 23 dated 05.03.2009, the petitioner was arrested and proceeded against under Section 107/151 Cr.P.C.

4. Learned counsel for the petitioner submitted that the impugned judgement is based on misappreciation of evidence and the respondents have been wrongly ordered to be acquitted. In fact, the trial Court had duly appreciated the evidence and had rightly held that the respondents guilty but the appellate Court completely overlooked the testimonies of various witnesses and wrongly acquitted the respondents. In fact, the respondents No. 1 to 4 had come with deadly weapons and attacked the petitioner and Gurmail Singh son of the petitioner. Even, the MLRs of the complainant further revealed that 04 injuries were sustained by him and the MLR was conducted on 04.03.2009. The ocular evidence was duly supported by the medical evidence. Still further, the initiation of proceedings under Section 107/151 Cr.P.C. would have no effect on the criminal case and the respondents have been wrongly acquitted by the appellate Court. Even, the appellate Court should have ignored the such minor inconsistencies in the statements of various witnesses.

5. I have heard counsel for the petitioner and have perused the record in the present case.

6. In fact, as per the complainant, the occurrence had taken place at two places. Still further, the matter was initially reported by

the petitioner to the police by stating that the occurrence had taken place at 07.00 p.m., on 04.03.2009 at the house of the petitioner/complainant. Two injuries on the person of Sadhu Singh petitioner were attributed to Nachhattar Singh alone and no injury was attributed to Pal Singh respondent. However, by twisting the facts of the case, the petitioner had filed the present complaint and the injuries were attributed to Nachhattar Singh as well as Pal Singh. Still further, even the petitioner had considerably improved his version, while stating the facts with regard to the second occurrence. The first appellate Court had recorded the detailed reasons in this regard. Apart from that, not only the facts relating to the occurrence were changed but the place of occurrence has also been shifted in the improved version. Consequently, from a perusal of both the version, i.e. the first version recorded by the police and secondly the complaint, would clearly show that the complainant had changed his version before the trial Court. Even otherwise, the proceedings under Sections 107/151 Cr.P.C. had already been initiated against the respondents and there was no justification of filing the present criminal complaint on a trivial issue and the minor dispute between the parties.

7. It has been held by the Hon'ble Supreme Court in the matter of **“Bhaskarrao and others Vs. State of Maharashtra”**, **2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

*“14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in **Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974** -*

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the

conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

15. In *Ramesh Babulal Doshi v. State of Gujarat*, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867, this Court observed:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

8. Still further in **Criminal Appeal No(s.) 410-411/2015 [Ravi Sharma Vs State (Government of N.C.T. of Delhi) and another]**, decided on 11.07.2022, Hon'ble the Supreme Court has held as under:-

*“Before venturing into the merits of the case, we would like to reiterate the scope of Section 378 of the Code of Criminal Procedure (for short ‘Cr.P.C.’) while deciding an appeal by the High Court, as the position of law is rather settled. We would like to quote the relevant portion of a recent judgment of this Court in **Jafarudheen and Others v. State of Kerala (2022 SCC Online SC 495)** as follows:*

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused.

Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal.

Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

9. Keeping in view the above noted discussion and the judgments passed by the Hon'ble Supreme Court, this Court is of the considered view that there is no merit in the present petition and the same is ordered to be dismissed.

10. Pending application(s), if any, is also disposed off.

11. Case property, if any, be dealt with, and, destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

14.09.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

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