

224

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

CRR-3738-2017 (O&M)
Date of Decision: November 22, 2023

KIRPAL SINGH

.....Petitioner

Versus

PIARA SINGH AND ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.K. Brinda, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant revision is preferred against judgment dated 05.07.2017 passed by Additional Sessions Judge, Rupnagar whereby judgment of acquittal dated 03.01.2015 passed by Chief Judicial Magistrate, Rupnagar in complaint under Section 198,199, 420 IPC was upheld.

2. The facts, in brief, are that Respondent No.1-Piara Singh and Respondent No.2-Nachhatar Kaur had misrepresented their age in connivance with Respondent No.3-ex-Sarpanch Kesar Singh to unjustly claim old age pension in accordance with the State government scheme.

3. After recording of the preliminary evidence, the trial court, vide order dated 08.10.2008, all accused were ordered to be summoned to face trial. On finding a prima facie case, vide order dated

29.02.2012, charges were framed against the accused to which they pleaded not guilty and claimed trial. The complainant examined as many as eight witnesses but could not prove their case beyond reasonable doubt. Accordingly, the accused were acquitted.

4. The complainant preferred an appeal against the judgment of acquittal which was dismissed by Addl. Sessions Judge, Rupnagar vide judgment dated 05.07.2017.

5. Learned counsel for the petitioner assails the impugned judgments on the ground that the Courts below have failed to consider the public record produced by complainant- ration cards (Ex C-1) and School Leaving Certificates (Ex C-2) of respondents no. 1 and 2 wherein date of birth of Respondent No. 1 is mentioned as 13.02.1947. He further argues that the complainant has duly proved its case by examining all relevant witnesses like Sarpanch of the village (CW3), office holders from District Social Security Office, Ropar (CW4, CW6), BASJS, Khalsa Senior Secondary School, Chamkaur Sahib (CW6), Election Kanungo Office (CW7) and Inspector, Food and Civil Supply, Morinda (CW8) and prays that the judgments of the Courts below be set aside.

6. Having heard the learned counsel for the parties and perused the record with their able assistance, I am of the view that the learned counsel for the petitioner has failed to indicate any perversity in the impugned judgments.

7. A perusal of the record indicates that Respondents no. 1 and 2-accused have been given the facility of old age pension since

30.08.2000 after due consideration of their application forms by the department of District Social Security. The application form was attested by Respondent No. 3, being the Sarpanch of the village Samana Kalan as well as BPDO, Morinda. The application is supported by the report of are Patwari indicating their landholdings. It is evident from the deposition of CW6-Nirmala Devi that the accused had also attached attested copies of their ration cards with their respective applications. Neither did the concerned department raise any objections regarding the age of the accused nor did the competent officer from Rural Hospital, Morinda who issued their respective medical certificate. In view of the above, I do not find any grounds to interfere with the judgments of the Courts below.

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.

22.11.2023
tejwinder

(HARPREET SINGH BRAR)
JUDGE

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