

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CRM-A-32-2019 (O&M)
Date of Decision: 06.12.2023

State of Haryana

..... Appellant

Versus

Lakhmir Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, AAG, Haryana
for the applicant-appellant.

HARPREET SINGH BRAR, J (ORAL)

CRM-808-2019

This is an application seeking condonation of delay of 96 days in filing the accompanying application filed under Section 378(3) Cr.P.C.

For the reasons mentioned in the application, the same is allowed and the delay of 96 days in filing the aforesaid application is condoned.

CRM-A-32-2019

1. This instant application under Section 378(3) CrPC is preferred against the order of acquittal dated 01.06.2018 passed by learned Special Judge, Ambala vide which the present respondents have been acquitted in FIR No. 19 dated 25.02.2016 registered under Sections 15, 29-61-85 of NDPS Act, at Police Station Panjokhra.
2. The minimal facts as necessary for disposing this application are that on 25.02.2016, respondent no.1 was apprehended by the police with

a plastic bag which he was carrying on his motorcycle. As per the procedure laid down in law, inspection was conducted and the bag was found to be containing 8 kgs of poppy husk. Two separate samples of 100 gms each along with the residue were sealed and taken into possession along with the motorcycle, in accordance with law. On the basis of ruka, the said FIR was registered. Respondent no.1 along with the case property were produced before learned Magistrate for certification of inventory. Thereafter, respondent no. 1 suffered a disclosure statement admitting his involvement in the said crime and disclosed that the contraband was procured from respondent no.2, who was then arrested on 16.05.2016. After his arrest, respondent no.2 also suffered a disclosure statement admitting his involvement in the said crime and demarcated the pig-farm where he had handed over the contraband to respondent no.1.

3. Having heard the learned counsel for the applicant-appellant and after perusing the record with his able assistance, it is clear that after diligent appreciation of the complete evidence on record, the learned trial Court has correctly concluded that the State has failed to prove the charges against the respondents beyond shadow of reasonable doubt. Furthermore, the fact that there are numerous contradictions, albeit minor, in the statements of the witnesses examined by the applicant-appellant which along with the fact that no independent witness was joined despite sufficient availability do not inspire confidence in the case of applicant-appellant.

4. 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 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.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

06.12.2023
D.Bansal

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No