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

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CRR-3564-2019

Date of decision : 12.09.2023

Gian Chand

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Raj Kapoor Malik, Advocate for
Mr. Dharamveer Singh Phour, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Present revision petition has been filed by the complainant impugning judgment dated 09.10.2019 passed by the Additional Sessions Judge, Kaithal whereby the judgment of acquittal dated 28.03.2018 passed by JMIC, Kaithal has been affirmed.

2. FIR was registered on the statement made by Gian Chand-petitioner claiming that on 02.02.2017 while he was sitting in his courtyard, the accused who is none else but his own son came and gave him axe blow which landed on his leg, chest and ear. He was rescued by his other son namely Ajay. Trial Court found that the prosecution has failed to drivehome the guilt of the respondent-accused, more so in the light of deposition of DW-1 Ramkali wife of the complainant.

3. In appeal preferred by the petitioner, Appellate Court affirmed the said finding.

4. Having heard counsel for the petitioner, I have not been able to persuade myself to interfere while exercising revisional

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jurisdiction under Section 401 Cr.P.C., as no glaring legal infirmity could be pointed out. Scope of revisional jurisdiction already stands well laid by Apex Court in ***Bindeshwari Prasad Singh @ B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another***, 2002 ***AIR (SC) 2907***, wherein it has been held that:-

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a re-trial. It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. The High Court will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation

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of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party. (See AIR 1951 Supreme Court 196 : D. Stephens v. Nosibolla; AIR 1962 Supreme Court 1788 : K.C. Reddy v. State of Andhra Pradesh; (1973) 2 SCC 583 : Akalu Ahir and others v. Ramdeo Ram; AIR 1975 Supreme Court 1854 : Patakalapati Narayana Gajapathi Raju and others v. Bonapalli Peda Appadu and another and AIR 1968 Supreme Court 707 : Mahendra Pratap Singh v. Sarju Singh).”

5. In view of above, there is no ground to interfere in the present revision petition and the same is hereby dismissed.

(PANKAJ JAIN)
JUDGE

12.09.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No