



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

CRM-A-1093-MA-2015
Date of Decision: 29.08.2024

Satpal ...Appellant

VS.

Baldev Ram and Others ...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Ajay Kaushik, Advocate
for the applicant-appellant.

N.S.Shekhawat J.

1. The applicant/appellant has filed the present application under Section 378 (4) Cr.P.C with a prayer to grant special leave to appeal against the judgment of acquittal dated 07.02.2015, passed by the Court of Sub Divisional Judicial Magistrate, Tohana, whereby the respondents were ordered to be acquitted of the charges framed against them.

2. The complaint in the present case was filed by the applicant by alleging that on 29.03.2009, Baldev Ram, Manjeet Kaur, Krishan Kumar i.e. respondents No.1 to 3 and Munshi Ram had caused injuries to him and he had filed a complaint in this regard. Further, Baldev Ram filed an application to Police Station, Sudhar against the applicant, his sister and his sister remained in custody for 03 days. Later on, the application filed by respondent No.1 was found to be false and a cancellation report was submitted by the police on 10.07.2010. On 11.10.2010, all the respondents along with their co-accused had come to attend the hearing of complaint filed by the applicant titled as “ Satpal Vs. Munshi Ram”. The complainant went to his shop after attending the hearing



in Court. At about 02: 00 P.M. on 11.10.2010, the respondents/accused came in a vehicle and were having dandas in their hands. Geeta, Manjeet Kaur and Ashok, all accused raised a *lalkara* to kill the complainant and Baldev, Munshi Ram, Krishan Kumar and Sushil Kumar started hurling abuses at him. The accused Baldev, Munshi Ram, Krishan Kumar, Ashok and Sushil Kumar gave slaps and fist blows to him. The applicant raised an alarm and Bhagwan Dass and Sardara came to his shop and rescued him from the clutches of the accused. While leaving the spot, the accused also threatened to kill the applicant. Even the matter was reported to the police, but the police had not taken any action against the accused.

3. After the preliminary evidence, the respondents were summoned by the Court of Sub Divisional Judicial Magistrate, Tohana for the commission of offence punishable under Sections 148,323,452,506 read with Section 149 of IPC.

4. In pre-charge evidence, the applicant appeared as PW-1 and examined Ramji Lal as PW-2 and Bhagwan Dass as PW-3 and pre-charge evidence was closed by the Court order. After taking into account, the pre-charge evidence, the respondents were charge-sheeted for commission of the offence under Section 323,452,506,149 of IPC, to which they pleaded not guilty and claimed trial.

5. In after charge evidence, the applicant appeared as PW-1 and tendered the documents Ex.C2 to Ex.C9 and after charge evidence was closed by the applicant.

6. After the closure of the evidence, the entire incriminating evidence was put to the respondents in the shape of the statement under Section 313 of



Cr.P.C and they pleaded their innocence and false implication by the applicant. However, no defence evidence was led by the respondents.

7. Learned counsel for the applicant argued that the impugned judgment is based on mis-appreciation of evidence and the settled cannons of law. In fact, there was sufficient evidence in the shape of the statement of the applicant, which proved beyond doubt that serious injuries were caused on the person of the present applicant. Even the testimony of PW-1 Satpal was supported by the statements of Ramji Lal, PW-2 and Bhagwan Dass, PW-3, who specifically stated that the accused in furtherance of their common object had forcibly entered the shop of the complainant and caused injuries to him and also threatened to kill him. The Trial Court had wrongly acquitted the respondents by referring to absence of the medical evidence, which is incorrect.

8. I have heard learned counsel for the applicant and perused the record.

9. In the present case, it is apparent from the evidence led by the complainant as well as the averments made in the complaint that the parties were already inimical towards each other. No doubt, previous enmity can be a reason for inflicting the injuries to the applicant, however, it may also serve as a ground for filing of a false complaint against the accused by the applicant. Consequently, when the parties are inimical towards each other, the Courts should proceed with caution and circumspection while evaluating the evidence led by the prosecution. In the present case, the applicant himself appeared as PW-1 and reiterated the allegations levelled by him in the complaint. As per him, on 11.10.2010, the accused were seven in number and were duly armed with *lathis*, had forcibly entered his shop with the common object of killing him



and caused injuries to him. Even Ramji Lal, PW-2 and Bhagwan Dass, PW-3 also made similar statements. However, it is apparent that in the present case, no medical record has been produced by the applicant nor any doctor has been examined by him. Rather, PW-1 stated that he got himself treated for the injuries from a private doctor, whose name he did not remember. Even Ramji Lal, PW-2 stated that the accused had caused injuries to applicant with *danda* also and he returned after getting Satpal, injured medico-legally examined from the Government Hospital. However, no such evidence was produced on record. Even, Bhagwan Dass PW-3, stated that the blood had come from the injuries of Satpal and Satpal had received various injuries. Satpal, applicant was also got admitted in Government Hospital, Tohana, but these statements of PW-2 and PW-3 are contradictory to the stand taken by the PW-1, Satpal, applicant. Thus, it is apparent that the Trial Court has correctly acquitted the respondents while granting them benefit of doubt.

10. 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."

11. In view of the above discussion and the law laid down by the Hon'ble Supreme Court, I find no grounds to interfere with the findings recorded by the Trial Court and the impugned judgment dated 07.02.2015 passed by the Court of Sub Divisional Judicial Magistrate, Tohana, is ordered to be upheld.

12. As a consequence, the application for special leave to appeal filed by the present applicant/complainant is ordered to be dismissed being meritless.

29.08.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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