



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

CRA-AS-48-2024

Date of decision: 20.08.2024

Sanjay

....Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankur Lal, Advocate
for the appellant.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This appeal has been preferred against the judgement of acquittal dated 14.12.2023 passed by learned Additional Sessions Judge, Jhajjar, in Sessions case No. 127 of 2016 arising out of FIR No.128 dated 21.04.2016 under Sections 323/325/354/506/34 of IPC and Sections 3(5)/33 of SC/ST Act registered at Police Station Beri, District Jhajjar.

2. The facts, in brief, are that on 21.04.2016, the complainant, namely, Harish, met the police party and got his statement recorded. It was alleged by the complainant that at about 10:00 A.M., he along with Ishwar, Nandu, Hari Ram, Sanjay (the appellant herein) and Amarjit were cultivating their agricultural land. It is further alleged that Ram Mehar, Rohtash, Balwal and other persons carrying pistol, *farsa*, *lathi* and iron rod in their hands caused injuries to Sanjay (the appellant herein), Harish, Amarjit, Ishwar and Jai Bhagwan on account of which, all of them were admitted in Government Hospital. The appellant, namely, Sanjay, suffered many injuries with *farsa* and iron rod and the accused/persons/respondents No.2 to 4 also extended threats of

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death to them and hurled caste oriented abuses on the complainant and injured and when Kamlesh and Manju tried to rescue the victim from the accused persons, they were being molested and their clothes were torn by them and consequently, a complaint was made before the concerned police. Upon the statement of the complainant, the FIR (*supra*) was registered. After conducting investigation and after completing necessary formalities, challan against respondents No.2 to 4 was presented in the Court. Subsequently, on finding a prima facie case against them, respondent No.2 to 4 were charged for the offences punishable under Sections 323/325/354/506/34 of IPC and Sections 3(1)(r)/3(2)(va) of SC/ST Act, Section 3(1) (s) and Section 3 (2) (va) of SC/ST Act on 18.08.2017, to which they pleaded not guilty and claimed trial. Respondent No.2 to 4 faced trial but were, ultimately, acquitted by the learned trial Court of the charges framed against them. Aggrieved, the appellant has approached this Court by way of the present appeal.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the evidence produced by the prosecution does not support their case for the reason that PW-2, namely, Ishwar, stated that he did not suffer any injury on the day of incident and was not medically examined. Furthermore, the accused, Balwan, pardoned both him and Harish due to their old age and he also did not witness the accused inflicting any injuries on anyone. Thereafter, PW-3, namely, Manju, testified that she and Kamlesh did not reach the field where the alleged incident occurred instead they encountered the accused while returning to the village of Dubaldhan. Therefore, the case of the complainant has remained uncorroborated throughout leading this Court to uphold the impugned order.

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. (*See H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. 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.

5. In view of the facts and circumstances of the case, this Court finds that 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. As such, there is no merit in the present appeal and hence, the same is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

20.08.2024
Neha

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