

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-4-2005 (O&M)
Date of decision : 20.01.2024

Dalip Singh

.....Petitioner

Versus

Gurnam Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Dilsher Singh Mann, Advocate for the petitioner
Mr. Jasraj Singh, Advocate for respondent Nos.1 to 3
Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present revision petition is to the judgment dated 29.01.2004 passed by the learned trial Court, vide which accused-respondent Nos. 1 to 3 were acquitted of the charges under Sections 323, 324, 34 IPC.
2. The facts that emerge from the prosecution case are that on 29.6.1999 at about 11.00/11.30 AM, Gurnam Singh started ploughing the land and in the meantime, Dalip Singh alongwith other persons came there and an altercation took place between them. An FIR 117 of 1999 was registered against the accused Dalip Singh and others, whereas a cross-case was also lodged against Gurnam Singh his and son, Sarabjit Kaur and Dharampreet Singh, respectively. After investigation, challan was presented in the said cross-case against the accused. On finding a prima facie case, charges under Sections 323, 324, 34 IPC were framed against accused Srabjit Kaur and Gurnam Singh, whereas accused Dharampreet Singh being juvenile was tried by Juvenile Court, to which they

pleaded not guilty and claimed trial.

3. The prosecution in order to bring home the guilt of the accused examined as many as 5 PWs. On closure of their evidence, statements of the accused-respondents were recorded under Section 313 of Cr.P.C. They denied all the incriminating circumstances that appeared against them in the prosecution case while pleading innocence.

4. The learned trial Court after appreciating the evidence acquitted the said accused-respondents.

5. Aggrieved petitioner is before this Court.

6. Learned counsel for the petitioner submits that the trial Court has fallen in error while acquitting the accused-respondents despite there being sufficient evidence against them. It was a case of free fight, wherein the complainant party had also received injuries, which are medically proved.

7. Per contra, learned counsel for respondent Nos. 1 to 3 submits that the trial Court after appreciating the entire evidence acquitted them, thus, the present petition deserves to be dismissed.

8. Heard the learned counsel on either side and perused the record.

9. It would be profitable to refer the judgment of Hon'ble The Supreme Court in the case of **N. Vijayakumar vs. State of Tamil Nadu** (2021) 3 SCC 687, wherein it was held thus:

"20.....Under Section 378 CrPC, no differentiation is made between an appeal against acquittal and the appeal against conviction. By considering the long line of earlier cases this Court in the judgment in Chandrappa v. State of Karnataka, (2007) 4 SCC 415 has laid down the general principles regarding the powers of the appellate Court while dealing with an appeal against an order of acquittal. Para 42 of the judgment which is relevant reads as under: (SCC p. 432) "42. From the above decisions, in our considered view, the following general principles regarding powers of the 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 G.A.No.28 of 1994 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 is 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. Hon'ble The Supreme Court in **Jafarudheen vs. State of Kerala**, (2022) 8 SCC 440, had held that, "While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

11. Adverting to the case in hand, the trial Court has categorically recorded that “the accused party had entered the possession of disputed land under the colour of sale agreement Ex.D1, which was resisted by the complainant party without any legal right or just and reasonable cause and that being so, the accused party had every right to cause injuries to the complainant party in the exercise of their right of private defence, particularly when the complainant party turned aggressor and in these premises, no offence is made out against any of the accused persons.”

12. No glaring defect in the procedure or that a patent error has been committed by the trial Court in ignorance of law, has been pointed out by the counsel for the petitioner, which has resulted in flagrant of miscarriage of justice. There is not even an iota of evidence against the respondents, which would lead to his conviction and a perusal of the orders shows that no other view is possible.

13. In view of the above, there being no perversity or illegality in the impugned order passed by the trial Court, whereby the respondents have been acquitted, the present petition for leave to appeal is hereby dismissed being bereft of merit.

20.01.2024
GSV/Ankur

(AMAN CHAUDHARY)
JUDGE

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