

2024:PHHC:166108



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

114

CRR 2671 of 2015

Date of Decision: 16.09.2024

Kuldip Singh

...Petitioner

Versus

State of Punjab and others

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. R.K. Handa, Advocate
Ms. Gauri handa, Advocate
Mr. Dharmbir Bhargav, Advocate and
Mr. Kulwinder Bhargav, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

Mr. Edward Augustine George Masih, Advocate
for respondent No. 4.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 07.02.2015 passed by the Court of Additional Sessions Judge, Ludhiana, whereby, respondents No. 2 to 5 have been ordered to be acquitted.

2. During the pendency of the revision petition before this Court, the respondents No. 2 and 5 had already died and only

respondents No. 3 and 4 had contested the present petition before this Court.

3. In the present case, the petitioner had filed a complaint against respondents No. 2 to 5 under Sections 324, 326 and 34 IPC. Prior to this, the FIR was registered on the same cause of action and after investigation, it was ordered to be cancelled. After that, the petitioner filed a criminal complaint before the trial Court and the trial Court had convicted all the accused/respondents No. 2 to 5 under Sections 324 and 34 of IPC and sentenced them to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.1,000/- each alongwith default stipulation.

4. The petitioner had filed the criminal complaint against respondents No. 2 to 5 by alleging that the complainant had two more brothers and one sister. His sister was married to Budh Parkash @ Kuki at Khanna, District Ludhiana. Respondents No. 2, 4 and 5 were his uncles whereas respondent No. 3 was his cousin. The litigation was pending between them. Budh Parkash @ Kuki, brother-in-law of the petitioner/complainant tried to get the matter compromised between the parties, but in vain. On 01.09.1996, the petitioner alongwith his father Jai Pal and respondents No. 2 to 5 were called at Khanna by Budh Parkash @ Kuki for compromising the matter. They were sitting in the house of Budh Parkash @ Kuki and on his advice, they had gone to the house of Ranbir Singh resident of village

Bhatian, who was the common relative of both the sides. At about 08.00 p.m., they were standing outside the house of Ranbir Singh. At that time, respondents No. 2 to 5 also reached there with Budh Parkash @ Kuki and the private respondents started using unparliamentary language. Gopal Singh respondent No. 5 caught hold of the petitioner and respondent No. 4 Arjun Singh attacked him with knife on his right shoulder and respondent No. 2 Prem Singh had also attacked him with a knife. The petitioner/complainant tried to save himself. He also suffered injury on his left hand. The petitioner/complainant raised alarm which attracted Mintoo, respondent No. 3, who also gave fist blows to the petitioner/complainant. The petitioner/complainant raised noise to save himself and Budh Parkash @ Kuki and Ranbir Singh saved the complainant from the accused. After causing injuries, the respondents No. 2 to 5 ran away from the spot. The petitioner was got admitted in Civil Hospital on 01.09.1996 and remained unfit for making the statement till 04.09.1996. The case under Sections 324 and 34 IPC was registered with Police Station Khanna and on getting the X ray, the offence under Section 326 IPC was added. Since no action was taken by the police, the complaint was filed by the petitioner/complainant.

5. During the course of preliminary evidence, the petitioner appeared as CW1 and the trial Court summoned respondents No. 2 to 5 to face the trial under Sections 324, 326 and 34 IPC.

6. Again in pre-charge evidence, the witnesses appeared on behalf of the petitioner. The statement of the accused was also recorded under Section 313 Cr.P.C. Thereafter, the trial Court convicted the respondents No. 2 to 5/accused under Sections 324 and 34 IPC and they were sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs. 1000/- for the offence punishable under Sections 324/34 IPC. However, vide the impugned judgment dated 07.02.2015 passed by the Court of Additional Sessions Judge, Ludhiana, the respondents No. 2 to 5 were ordered to be acquitted by the appellate Court. Hence, the present revision petition has been filed before this Court.

7. Learned counsel for the petitioner contends that several cases were pending between the petitioner and respondents No. 2 to 5. Budh Parkash @ Kuki, a common relative made all efforts to get the matter settled between both the parties as they are closely related. However, respondents No. 2 to 5 caused serious injuries on the person of the present petitioner and he was admitted in Civil Hospital Khanna. From 01.09.1996 to 03.09.1996, he remained unconscious and unfit to give statement to the police officers. Further, the police also colluded with the accused and did not take any action in the

present case. However, the petitioner had suffered injuries and such injuries could not have been self suffered. Further, the statement of the petitioner was duly corroborated by PW3 Dr. N.K. Singla, who exhibited the MLR of the petitioner and the pictorial diagram of the injuries. Still further, the testimony of the petitioner was duly corroborated by other witnesses and the respondents No. 2 to 5 have been wrongly acquitted by the Court.

8. On the other hand, learned counsel appearing on behalf of the private respondents vehemently submits that the impugned judgment is based on the correct appreciation of evidence and the settled law. Even, the petitioner had lodged the FIR against the private respondents but his version was found to be incorrect and false. Thus, a cancellation report was presented before the Court of law. Still further, the appellate Court has taken into consideration the entire prosecution evidence, which itself proves the innocence of the present petitioner.

9. I have heard the rival submissions made by the learned counsel for the parties and perused the record.

10. While discussing the scope of interference by the Appellate Court, while dealing with the judgment of acquittal, the Hon'ble Supreme Court held in the matter of **Bhaskar Rao and others Vs. State of Maharashtra AIR 2018 SC 2222:2018 (5) RCR (Criminal 288)** 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. Vs. 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 PW-2 and PW-6 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 re-appreciation, 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 re-appreciation 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 characterised 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."

11. In **Ramesh Babulal Doshi v. State of Gujarat, 1997(3)**

RCR (Criminal) 62: 1996 CrilJ 2867, this Court observed as under:

"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."

12. In the present case, the petitioner had earlier got the FIR registered against respondents No. 2 to 5. Thereafter, an inquiry was conducted by Balwinder Singh, DSP (D) and the statement of the

complainant was recorded. This fact was also admitted by the complainant himself. Even, it has been alleged that both the parties had gone to Ranbir Singh for getting the matter compromised. Ranbir Singh and Budh Parkash @ Kuki, main witnesses were admittedly co-accused in a murder case. Still further, Ranbir Singh, witness had no relationship either with the accused or with the complainant. Even though, he is a close friend of Budh Parkash @ Kuki, brother-in-law of the complainant. Still further, both the parties were having long standing enmity and several cases were pending against them. Thus, both the sides had no reason to approach Ranbir Singh for getting the matter compromised between them.

13. Still further, even the trial Court had noticed serious contradictions between the testimonies of various prosecution witnesses. Complainant while appearing as PW1 stated that he remained admitted in the hospital from 01.09.1996 to 03.09.1996 and was unconscious and unfit to make the statement. However, Dr. N.K. Singla, PW3 admitted in his cross-examination that the injuries in the MLR Ex.PW3/A were read over to the complainant and he had admitted the same to be correct. Even, the complainant was in his senses as he had signed the MLR. Thus, the version of the complainant that he remained unconscious for three days was rightly held to be false by the appellate Court. Still further, the appellate Court had rightly held that it had been stated that the accused came to

the house of Budh Parkash @ Kuki in a car, but the registration number of the car used by the accused or even its make was not mentioned by the complainant. Still further, Budh Parkash @ Kuki stated that all the four accused had come to the house of Ranbir Singh in their car. Thus, all the accused had gone with Budh Parkash @ Kuki to the house of Ranbir Singh. The trial Court rightly held that it is not the case of the complainant that the weapons of offence were not concealed by the respondents No. 2 to 5. Thus, when the respondents No. 2 to 5 had gone in the car of Ranbir Singh, there was no question of taking the weapons of offence.

14. The petitioner has failed to point out any other illegality in the impugned judgment passed by the appellate Court. Even otherwise, I have carefully gone through the impugned judgment passed by the appellate Court and found that the impugned judgment is based on correct appreciation of evidence and law.

15. Consequently, the revision petition is ordered to be dismissed.

16.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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