

CRR-4863-2016 (O & M)
Date of decision: 15.02.2024

SIKANDER SINGH

...PETITIONER

V/S

GURMAIL SINGH & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ishmeet Singh, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. The present revision petition is preferred against the judgment dated 03.10.2016, passed by learned Additional Sessions Judge, Mansa, vide which, the judgment of acquittal dated 20.05.2016, passed by learned Chief Judicial Magistrate, Mansa, in case bearing FIR No.51 dated 10.06.2012 registered under Section 304-A read with Section 34 of the IPC at Police Station Sadar Mansa, has been upheld.

2. Briefly, the facts are that son of the petitioner-complainant, namely Gurdeep Singh was working as an electrician for the respondents. On 09.06.2012, at about 7:00 PM, the petitioner received a phone call informing him that his son had died after receiving an electric shock while working on an electric pole in Village Kalon. It was alleged that the respondents, neither had the permit to put the deceased to job on the electric pole nor did they cut off the electricity supply while he was working on it. It was also alleged that the J.E.-respondent no. 3 and the contractors- respondent nos. 1 and 2 were drunk at the time of the occurrence and it was due to their negligence that the son of the

petitioner died.

3. On the basis of material available on record, the learned trial Court acquitted the respondents-accused of the charges framed against them vide judgment dated 20.05.2016. Aggrieved by the same, the respondents-accused preferred an appeal before the learned lower Appellate Court, which was also dismissed vide judgment dated 03.10.2016.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that no documents have been brought on record either by PW1-petitioner/complainant or PW2-Investigating Officer to establish that the deceased in fact worked for respondent Nos.1 and 2. The petitioner was informed that his son died while working with respondent Nos.1 and 2, by PW3-Gora Singh, who was told about the same by PW4-Deepa Singh, which is merely hearsay evidence and cannot be relied upon. In his cross-examination, PW3-Gora Singh has categorically stated that he was not present at the place of occurrence and referred to the incident as an act of God. He also failed to state at what time the alleged incident took place. Further, nowhere in his statement has PW4-Deepa Singh mention that the deceased was working with respondent Nos.1 or 2.

5. Moreover, while it is conclusively proved that respondent no. 3 worked for PSEB (now PSPCL), neither oral nor documentary evidence were produced on record to establish that any work was allotted at the place of occurrence to respondent Nos.1 and 2 by his department. As such, no overt act has been attributed to the respondents which would make out the ingredients of the offence as defined under Section 304-A of the IPC.

6. 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 v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. 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.

7. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate Court or the learned trial Court which warrants interference by this Court. Therefore, the present petitioner is dismissed.

8. Pending miscellaneous application(s), if any, also stand disposed of.

February 15, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |