

239 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No.29790 of 2018 in/and
CRR No.2839 of 2018
Date of Decision: 21.03.2024

Paramjit KaurApplicant/Petitioner

Versus

Jagmohan Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. A.P.S. Rehan, Advocate
for the applicant/petitioner.

PANKAJ JAIN, J. (ORAL)

CRM No.29790 of 2018

This is an application filed under Section 5 of the
Limitation Act seeking condonation of delay of 112 in filing the present
revision petition.

For the reasons recorded in the application, this Court is
satisfied that the petitioner has made out a sufficient cause to condone
the delay. Resultantly, the application is allowed. Delay of 112 days in
filing the present revision petition is hereby condoned.

CRR No.2839 of 2018

Complainant is in revision against judgment passed by
Additional Sessions Judge, Gurdaspur whereby the respondents have

been acquitted reversing the findings of conviction recorded by Chief Judicial Magistrate, Gurdaspur.

2. On the complaint preferred by the petitioner, respondents/accused were convicted for offences punishable under Sections 452, 323, 379 IPC and sentenced as under:

Name of the respondent	Offence u/s	Sentence R.I.	Fine	In default of payment of fine to further undergo S.I.
Jagmohan Singh	452 IPC	2 years	Rs.2000/-	6 months
-	323 IPC	1 year	Rs.500/-	2 months
-	379 IPC	1 year	Rs.500/-	6 months
Harmeet Singh	452 IPC	2 years	Rs.2000/-	6 months
-	323 IPC	1 year	Rs.500/-	2 months
-	379 IPC	1 year	Rs.500/-	6 months
Harpal Singh	452 IPC	2 years	Rs.2000/-	6 months
-	323 IPC	1 year	Rs.500/-	2 months
-	379 IPC	1 year	Rs.500/-	6 months
Ajmer Singh	452 IPC	2 years	Rs.2000/-	6 months
-	323 IPC	1 year	Rs.500/-	2 months
-	379 IPC	1 year	Rs.500/-	6 months

3. In appeal, the findings have been reversed and the respondents stand acquitted.

4. As per the complaint, the petitioner alleged that on 9th of April, 2010 at about 9.00 a.m. respondents came to her house and tried to take away the harvest combine purchased by her husband. They came at about 10.00 a.m. on the same day along with accused No.5 to 8 (who were the police officials). Brother-in-law of the petitioner namely Jaspal Singh was illegally detained in the police post. It is claimed that again at about 8/8.30 p.m. on the same day, accused/respondents No.1

to 4 illegally trespassed into her house, causing injuries to her and forcibly took away the harvest combine.

5. Petitioner as well as respondent No.4 Ajmer Singh are related to each other. Respondent No.4 is her brother-in-law. Trial Court held respondents guilty of offence punishable under Sections 452, 323, 379 of the IPC and sentenced them as stated hereinabove. In appeal preferred by the respondents they stood acquitted.

6. Counsel for the petitioner while assailing the judgment passed by the Appellate Court asserts that the same has been passed without appreciating the evidence on record. Relying upon minor contradictions between the statements made by the witnesses, Appellate Court has wrongly reversed a well reasoned judgment passed by the Trial Court. Counsel for the petitioner claims that injuries on the person of the petitioner have been proved on record, yet the Appellate Court acquitted the respondents.

7. I have heard counsel for the parties and have carefully gone through the records of the case.

8. The dispute primarily seems to be w.r.t. possession over the harvest combine. Petitioner claims that the same was purchased by her husband along with one Bhupinder Singh, son of Sardool Singh using his hard earned money. Respondent No.4 Ajmer Singh asserts his right over the same claiming that the combine was purchased by Manjit

Singh father of husband of the petitioner as well as accused No.4 and Davinder Singh is not exclusive owner of the same. Husband of the petitioner Davinder Singh has not entered into the witness box. Thus, Appellate Court rightly held that the best evidence having been withheld by the complainant and there is no cogent evidence to prove that combine on the given date was in exclusive possession of the petitioner. Appellate Court further relied upon the admission made by the complainant herself that the house in question was ancestral house of the parties and electricity meter in the same was installed in the name of Manjit Singh father of Davinder Singh and respondent No.4 Ajmer Singh. So far as medical examination of the petitioner is concerned, the concerned witness i.e. CW3 Dr. Harpal Singh admitted that all the injuries as mentioned in the MLR were simple in nature and were on the right side of the body of the complainant. He admitted that the possibility of the injuries due to falling and/or them having been caused with friendly hands cannot be ruled out.

9. In view of above, this Court finds that the view formulated by the Appellate Court seems to be more probable than the one recorded by the Trial Court.

10. Law w.r.t. exercise of jurisdiction under Section 401 Cr.P.C. in the cases involving order of acquittal passed by the Court below stands well laid down by the Apex Court in the case of **Bindeshwari**

Prasad Singh @ B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another, 2002 AIR (SC) 2907 wherein it has been held that -

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a re-trial. **It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice.** The High Court will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party. (See **AIR 1951 Supreme Court 196 : D. Stephens v. Nosibolla**; **AIR 1962 Supreme Court 1788 : K.C. Reddy v. State of Andhra Pradesh**; **(1973) 2 SCC 583 : Akalu Ahir and others v. Ramdeo Ram**; **AIR 1975 Supreme Court 1854 : Patakalapati**

Narayana Gajapathi Raju and others v. Bonapalli Peda
Appadu and another and AIR 1968 Supreme Court 707 :
Mahendra Pratap Singh v. Sarju Singh).”

11. In view of above, this Court does not find that the present case falls within the parameters as laid down by the Supreme Court in the case of **Bindeshwari Prasad Singh's case (supra)**. Resultantly, the revision petition is dismissed.

March 21, 2024	(PANKAJ JAIN)
Dpr	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No