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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2987-2018(O&M)
Date of Decision: 29.01.2024

RAMCHANDER
....Petitioner

Versus

STATE OF HARYANA AND ANR
....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.P. Sharma, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. This instant revision petition has been preferred against the order dated 05.07.2018 passed by learned Principal Magistrate, Juvenile Justice Board (hereinafter referred to as Board), Rewari whereby, respondent no.2 (child-in-conflict with law) has been absolved of the notice of accusation served upon himin FIR No.47 dated 18.05.2017 under Sections 323, 325, 34 of the IPC.

FACTUAL BACKGROUND

2. Briefly, the facts are that the petitioner gave a statement to the police wherein he alleged that on 07.05.2017, accused Pardeep came to his house and gave beatings to him. Along with the said accused, three other co-accused including respondent no.2 accompanied Pardeep in the quarrel. Due to the said beatings, the petitioner fell unconscious and found himself to be in a hospital when he regained his consciousness. On the basis of the statement of the petitioner, the above-mentioned FIR was registered. Respondent no.2, who

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is a child-in-conflict with law, was served with the notice of accusation for involvement in the commission of offences under Sections 323 and 325 read with section 34 of IPC, to which he pleaded his non-involvement and claimed inquiry.

3. The prosecution examined as many as 09 witnesses to establish its case. The material brought forward by the prosecution against respondent no.2 was put to him but he denied the allegations levelled against him and stated that he was falsely implicated in the aforementioned case.

4. On assessing the material available on record, the learned Board vide order dated 05.07.2018 absolved respondent No.2 from the notice of accusation served upon him. Aggrieved by the same, the petitioner preferred the present instant revision petition.

CONTENTIONS

5. Learned counsel for the petitioner contends that there is specific role and injury attributed to respondent No.2 in the complaint. He further contends that observation made by the Board that no injury was suffered by the petitioner on his face against the alleged fist blows by respondent no.2, is wrong as MLR shows that the nose of the petitioner was swollen.

6. Learned counsel for the petitioner further contends that no unwarranted improvement was made upon his case by the petitioner and the supplementary statement was rightly justified because the petitioner was not fully conscious when the initial statement dated 08.05.2017 was made by him.

ANALYSIS AND OBSERVATIONS

7. I have heard learned counsel for the petitioner and after perusing the paper-book with his able assistance, it transpires that the petitioner was

declared fit by the concerned medical officer upon which his statement was

recorded. But he did not make any specific allegations against respondent no.2 in his initial statement to the police and rather mentioned it in his supplementary statement that he was given fist blows on his face by respondent no.2. Further, the eye-witness namely Ramrati (PW-3) while stating that other accused gave beatings to the petitioner nowhere stated that respondent no.2 gave the alleged beatings upon the petitioner. Kaptan Singh (PW-2) also made a statement similar to the one made by Ramrati. Even the perusal of the MLR shows that no injury was suffered by the petitioner on his face except a swollen nose. Further, the petitioner while making improvement upon his case qua his supplementary statement, tried to justify the same by deposing that he was not fully conscious when his initial statement (Ex. PW1/A) dated 08.05.2017 was recorded. But the said justification falls flat after considering the opinion given by the doctor on application (Ex. PW6/B) which shows that he was fit to make a statement on 08.05.2017. Therefore, the observation made by the learned Board that respondent no.2 is entitled to the benefit of doubt as the improvements made by the prosecution witnesses are fatal to its case, stands validated.

8. Furthermore, 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. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(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 bearing 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.

CONCLUSION

9. In view of the above discussion, the present petition stands dismissed on merit. Pending miscellaneous application(s), if any, shall also stand disposed of.

January 29, 2024
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(HARPREET SINGH BRAR)
JUDGE

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