

18.09.2000 at Police Station Tanda, alleging theft of Rs. 15000/- from the cash box of the Gurudwara wherein the petitioner-complainant was also challaned. The petitioner worked at the Punjab School Education Board and was falsely implicated to malign his service career and defame his family, merely because he was the son of the then President of the Gurudwara Committee.

3. The complainant examined 03 witnesses to prove its case. Statement of the accused under Section 313 Cr.P.C. was recorded wherein he alleged false implication and examined 3 witnesses in their defence. After assessing all material available on record, the learned trial Court convicted Manjit Singh and Jasbir Singh, while acquitting Harbhajan Singh, vide judgment dated 12.01.2015. Aggrieved by the same, the accused preferred an appeal before the learned lower Appellate Court which was allowed vide judgment dated 08.05.2019 and the respondents-accused were acquitted of the notice of accusation served upon them.

4. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that the petitioner-complainant alleges defamation on the grounds that he was booked in a false FIR bearing No. 160 dated 18.09.2000, filed on the allegations of trespass and theft from the cash box of the Gurudwara. The alleged offence is defined under Section 499 of the IPC which reads as follows:

“Section 499. Defamation

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.”

5. In view of the above-mentioned provision, the intention to cause harm is a necessary ingredient of the offence of defamation. Neither CW1-

Jawinder Singh nor CW3- Chanan Singh have testified that the allegations had lowered their opinion of the petitioner-complainant. Furthermore, the petitioner filed the complaint (*supra*) on 29.09.2008, after about 8 years of registration of the FIR. In the FIR case itself, the petitioner-complainant was acquitted on the ground that he retained the control of as well as possession over the Gurudwara, therefore, he could not have committed the offence of theft. As such, the petitioner-complainant has failed to make out the ingredients of the offence as enshrined under Section 499 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. 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** 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 trial Court or leaned lower

Appellate Court which warrants interference by this Court. Accordingly, the present petition is dismissed.

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

March 06, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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