



CRM-A-447-MA-2008 (O&M)

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(203) IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-A-447-MA-2008 (O&M)

Date of Decision:-20.01.2025

UNION TERRITORY OF CHANDIGARH

.....Appellant

VERSUS

PANNA LAL & OTHERS

.....Respondents

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amit Kumar Goyal, Advocate
for the Appellant.Mr. Dinesh Maurya, Advocate
for respondent Nos.1, 5 & 6.Mr. Davinder Lubana, Advocate
for respondent No.7.

JASJIT SINGH BEDI, J.

The present application under Section 378(3) of Cr.PC has been filed for grant of leave to appeal against the judgment of acquittal dated 18.01.2008 passed by Addl. Sessions Judge, Chandigarh.

2. The FIR was registered on 19.06.2000, the judgment of acquittal passed by the Addl. Sessions Judge, Chandigarh is dated 18.01.2008, the appeal was filed on 17.07.2008 and the matter is being taken up for hearing now after more than 24 years of the registration of the FIR.

3. Appeal qua respondent Nos.2 and 4 stand abated since they had passed away.

4. It is the case of the prosecution that on 19.06.2000, on receipt of a telephonic message from GMCH, Sector 32, Chandigarh regarding



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admission of Arjun Singh and Dinesh in the above said Hospital, SI Ishwar Singh, along with fellow police officials reached there and after obtaining opinions of the doctor regarding fitness of the injured to make a statement of injured complainant-Arjun Singh recorded to the effect that he was doing catering work. On 19.06.2000, at about 7.45 p.m. his friend Ganesh came to his jhugi and at about 8.30 p.m. both of them started proceeding towards the jhugi of Rais Khan. When they reached near Government Middle School, Colony No.4, Shashi Shanker Tiwari along with 10-12 other persons were standing on the way armed with rods, knife etc. Panna Lal was holding a hockey stick, Phool Chand was having a knife in his hand, Udey Bhan and Udey Raj, iron rods and the remaining accused were empty handed. When they tried to pass by Panna Lal pushed him with his shoulder and he was caught hold by 2-3 accused and Panna Lal started inflicting hockey blows on his head. Udey Bhan inflicted iron rod blows on his arms and Udey Raj inflicted a rod blow on his legs. Phool Chand inflicted a knife blow on his left hand. When Ganesh tried to save him, they left him (complainant) and started beating Ganesh. On the basis of this statement of the complainant, the instant case FIR was registered against the accused. Site plan of the place of occurrence was prepared. Statements of the witnesses were recorded. The accused were arrested. After completion of necessary investigation, challan was presented against the accused in the Court of Ilqa Magistrate, Chandigarh. Since the offence under Section 308 IPC was exclusively triable by the Court of Sessions, the instant case was committed to the Court of Sessions for trial.



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5. The charges for the offences under Sections 148, 308/149, 324/149 and 323/149 IPC were framed against the accused to which they pleaded not guilty and claimed trial.

6. In order to substantiate its case against the accused, the prosecution examined as many as 11 witnesses, some after the framing of charges on 21.12.2000 and some after the second charge sheet was framed on 19.10.2004, after the summoning of accused Shashi Shanker Tiwari, under Section 319 Cr.P.C.

7. Statements of the accused in terms of Section 313 Cr.P.C. were recorded thereafter so as to apprise them of all the incriminating circumstances appearing against them in the evidence led by the prosecution. The accused reiterated their innocence and claimed false implication. They stated that they had been falsely implicated in this case. In defence, the accused examined Inspector J.S. Chema, CID Branch as DW-1 and injured Ganesh as DW-2.

8. Based on the evidence led respondent Nos.1 to 7 were acquitted by the Court of Addl. Sessions Judge, Chandigarh vide judgment dated 18.01.2008.

9. It is the aforementioned judgment which is under challenge in the present case.

10. The learned counsel for the appellant-State contends that the judgment of acquittal has been passed on the basis of conjectures and surmises. The medical evidence was totally in consonance with the ocular account. The witnesses had deposed consistently as to the manner in which



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the occurrence had taken place. Therefore, leave be granted to file an appeal against the acquittal of respondent Nos.1 to 7.

11. On the other hand, the learned counsels for respondent Nos.1, 5, 6 and 7 contend that there was no evidence inculcating the accused in the commission of the offence in question. The material witnesses had not deposed in consonance with the prosecution case. They were discrepant in material particulars. The medical evidence was contrary to the ocular account. They, therefore contend that the present appeal seeking grant of leave to appeal ought to be dismissed.

12. I have heard the learned counsel for the parties.

13. In the instant case, initially, on the deposition of PW1-Arjun Singh (injured), one Shashi Shanker Tewari (respondent No.7) was summoned under Section 319 Cr.P.C. after which a *de novo* trial began. However, PW1-Arjun Singh passed away and therefore his deposition can be read only against the other accused and not against respondent No.7. Ganesh, another injured witness who was examined as PW2 during the course of the first trial, during the course of the *de novo* trial did not support the prosecution and appeared as defence witness. He was examined as DW2 and stated that one of the police officials had instructed him to narrate the occurrence in a particular manner and disclose the names of the accused persons. In fact, the said accused persons were never present at the spot. Therefore, apparently, while one injured supported the prosecution case, the other has not thereby creating a doubt in the case of the prosecution.

14. As to how an appeal against a judgment of acquittal is to be



dealt with, the Hon’ble Supreme Court in ***Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427*** has held as under:-

“ 8. While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”

15. In view of the aforementioned discussion and keeping in view the law laid down in ***Kallu @ Masih & Ors. Case (supra)***, I find no reason to interfere with the well reasoned judgment of acquittal passed by the Addl. Sessions Judge, Chandigarh. Therefore, the application seeking grant of leave to appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

20.01.2025
Jitesh

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