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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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**CRA-S No.1749-SB of 2015
Date of decision: 09.01.2025**

Labh Singh

... Appellant

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohan Lal Singla, Advocate,
for the appellant.

Ms. Himani Arora, AAG, Punjab.

Mr. C.M. Munjal, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant appeal has been preferred against the judgment of acquittal dated 22.01.2015 passed by the Court of learned Additional Sessions Judge, Ludhiana in Sessions case No.88 of 2010 titled as *State v. Daljit Singh* arising out of FIR No.154 dated 02.06.2010 registered under Section 3 (1) (iv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short 'SC&ST Act') at Police Station Samrala, erstwhile District Khanna now District Ludhiana, whereby the respondent-accused had been acquitted of the charges as

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framed against him.

2. For the sake of continuity and coherence, the parties shall be nominated as per their original nomenclature as given during the course of trial.

3. Brief facts of the case relevant for the purpose of disposal of this appeal are that the complainant i.e. the present appellant had lodged a complaint with Punjab State Commission for Scheduled Caste, Chandigarh (For short “Commission”) on the allegations that the persons named in the complaint had made an illegal attempt to dispossess him from his land on 08.10.2007. He had also reported the matter to the police but only preventive proceedings under Sections 107 and 151 of the Code of Criminal Procedure (For short “Cr.P.C.”) were initiated and no other action was taken. The Commission called a report from the Senior Superintendent of Police Khanna who intimated that the dispute between the parties was of civil nature. However, while exercising powers conferred upon the Commission under Section 19 (2) of the Punjab State Commission for Scheduled Caste and Scheduled Tribe Act, 2004 (For short “Act, 2004”), the Commission gave direction to the concerned SSP to register a case against the accused Daljit Singh and accordingly an FIR under Section 3 (1) (iv) of the SC&ST Act had been registered. Investigation proceedings were initiated. The accused Daljit Singh was arrested and subsequently he was released on bail. After completion of

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investigation, challan was presented and the case was committed to the Court of learned Sessions Judge and had been assigned to the Special Court.

4. On finding a prima face case for commission of offence punishable under Section 3 (1) (iv) of the SC&ST Act (wrongly mentioned as Section 13 (1) (iv) of the SC&ST Act in judgment of the trial Court), the accused had been charge-sheeted accordingly. He pleaded not guilty to the charges and claimed trial.

5. To substantiate its case, the prosecution examined eight witnesses in all besides placing reliance upon certain documents and thereafter the evidence of prosecution was closed.

6. Statement of accused was recorded under Section 313 of Cr.P.C. wherein he abjured his guilt and pleaded innocence. However, no defence evidence had been adduced.

7. After giving due deliberations to the contentions raised by both the sides and appraising the evidence produced on record, the learned trial Court by observing that the prosecution had failed to bring home the guilt of the accused and that had also failed to prove that the complainant was a member of Scheduled Caste category, extended benefit of doubt to the accused thereby acquitting him of the charge as framed against him.

8. Feeling aggrieved, the present appeal has been filed.

9. It is argued by learned counsel for the appellant that the

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judgment of acquittal is not sustainable in the eyes of law as while giving finding therein, the learned trial Court did not apply its judicious mind. The findings are based on conjectures and surmises. It was wrongly observed that the appellant had failed to prove that he belonged to Scheduled Caste community. Caste certificate Ex.PW4/A had been produced in evidence and had been duly proved but was not taken into consideration. The learned trial Court also erred in holding that the complainant could not prove his ownership over any specific part of land in dispute and was not proved to be in possession of the any specific portion. It was wrongly held that the guilt of the accused for commission of offence punishable under Section 3 (1) (iv) of the SC&ST Act had not been established. With these broad submissions, it is urged that the impugned judgment is liable to be set aside, the appeal deserves to be accepted and the accused Daljit Singh i.e. respondent No.2 is liable to be held guilty and convicted for commission of offence punishable under Section 3 (1) (iv) of the SC&ST Act.

10. Learned State counsel has not raised any serious objection to the pleas as taken in the appeal.

11. Per contra, it is argued by learned counsel for the respondent No.2 that the findings as given by learned trial Court were well reasoned and had been give due appreciation of the material placed on record and while urging that no ground for interfering in the same is made out, it is

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stressed that there is no merit in the appeal and the same is liable to be dismissed.

12. I have heard learned counsel for the parties at considerable length and have gone through the trial Court record carefully.

13. Since challenge is to the judgment of acquittal of trial Court, therefore, before proceeding further and adverting to the arguments raised by learned counsel for the parties, it would be useful to review the approach to be adopted while deciding the appeal against acquittal by the trial Court. In **Chandrappa and others v. State of Karnataka**, (2007) 4 SCC 415, the Hon'ble Apex Court had observed that it could not be forgotten that in case of acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person should be presumed to be innocent unless he is proved to be guilty by a competent Court of Law. Secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial Court. In **Atley v. State of U.P.**, AIR 1955 SC 807, the approach of the Appellate Court while considering a judgment of acquittal was discussed and it was observed that unless the Appellate Court comes to the conclusion that the judgment of acquittal was perverse, it should not set aside the same. In **Aher Raja Khima v. State of Saurashtra**, AIR 1956 SC 217, it was

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observed that for the High Court to take a different view on the evidence “there must also be substantial and compelling reasons for holding that the trial Court was wrong”. In **Ramesh Babulal Doshi v. State of Gujarat**, 1996 SCC (CrL.) 972, the Hon'ble Apex Court while speaking about the approach of the Appellate Court while considering an appeal against the order of acquittal of accused observed that while speaking in judgment over acquittal, the First Appellate Court is required to seek an answer to the question whether the findings of the trial Court are culpably wrong, manifestly erroneous and demonstrably unsustainable. If the Appellate Court answers the above questions in the negative, the order of acquittal should not be disturbed. In **Chandrappa's case** (Supra), the Apex Court after referring to a catena of judgments, culled out the following general principles regarding the powers of the Appellate Court while dealing with an appeal against an order of acquittal in the following words:-

- i) An Appellate Court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
- ii) The Code of Criminal Procedure puts no limitation, restriction or condition on exercise of such power and Appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and law.

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iii) An Appellate Court, must bear in mind that in case of acquittal, there is double presumption in favour of the accused.

iv) If two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the finding of acquittal recorded by the trial Court.

14. Let us consider the arguments respectively raised by both the parties while taking into consideration the above discussed settled position of law. The allegations against the respondent No.2-accused were that he had taken illegal possession of property belonging to the complainant who is a member of Scheduled Caste community and had wrongfully dispossessed him. As per unamended provisions of the SC&ST Act, a person not being a member of Scheduled Caste or Scheduled Tribe, is liable for punishment, if he wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe. The case of the prosecution is that the complainant belonged to Scheduled Caste and owned 12 karams of land abutting the road of the Village Phirni. As per the allegations, the accused encroached upon 2 karams of the land so owned by the complainant and wrongfully dispossessed the complainant from the same. The learned trial Court

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observed that the complainant/prosecution had failed to prove that the complainant was a member of Scheduled Caste. In this regard, the learned trial Court had relied upon the testimony of PW-4 Sat Bhama, Clerk, office of Sub Divisional Magistrate, Samrala. A perusal of his statement shows that in his examination-in-chief, this witness has stated that the certificate Ex.PW-4/A showing the complainant to be of Scheduled Caste was original but the same had not been prepared by him and he could not tell anything about the signatory of the same. However, it is also revealed that he had admitted that this certificate was genuine one and contained seal of Sub Divisional Officer. The learned trial Court had observed that since the certificate was issued by Sub Divisional Officer and not Sub Divisional Magistrate, therefore, the genuineness of this certificate could not be accepted. On a perusal of the entire record, I am inclined to hold that the observations made by the learned trial Court to that extent were not correct. It is common knowledge that an officer of the rank of Sub Divisional Officer also exercises simultaneous powers of office of Sub Divisional Magistrate. The certificate Ex.PW4/A had been issued in favour of the complainant way back in the year 1980. Only because of the fact that the seal of a Sub Divisional Officer and not a Sub Divisional Magistrate had been affixed on the same, it cannot be stated that this document was not genuine and the complainant was not a member of the Scheduled Caste community. Therefore, in the opinion of

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this Court, the findings as given by learned trial Court to that extent are liable to be reversed.

15. Proceeding further and coming to the question as to whether the prosecution had produced sufficient, cogent and convincing evidence of such nature which could be acted and relied upon beyond doubt to prove that a case for commission of offence punishable under Section 3 (1) (iv) of the SC&ST Act had been made out or not. According to the prosecution case, the respondent No.2-accused had illegally occupied two karams of land owned by the appellant-complainant. On a perusal of the documents placed on record of the trial Court record as well as the sworn deposition of the complainant and other witnesses, it is however, revealed that no specific description of the property which was allegedly owned and possessed by the appellant had been given either in the complaint or in the evidence so produced. In his sworn deposition, the complainant simply stated that he owned 12 karams of land abutting Village Phirni and had raised some construction over the same and two karams out of the said land had been illegally possessed by the respondent No.2-accused by raising construction of a wall. He neither gave the details of the exact khewat number, khatoni number and khasra number of such land nor produced any documentary evidence on record in the form of Jamabandi and Khasra Girdawari entries to show that he owned any such land. Neither the exact dimension of the said land which was allegedly

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encroached upon by the respondent No.2-accused had been given by the appellant. The prosecution had examined PW-6 Satish Kumar, Halqa Patwari who had conducted demarcation of the land in dispute on an application given by the present appellant and he proved his report Ex.PW5/A. This witness deposed during cross-examination that the respondent No.2-accused had not encroached upon the land of the informant and had constructed his house in his own plot. PW-6 was a witness of the prosecution itself. His statement has remained unshaken. It is not the version of the appellant that he had made a false deposition and on considering his testimony, it is clear that the allegation that the respondent No.2-accused was illegal occupant of the land owned or possessed by the appellant, has not been proved. No other evidence could be produced on record by the prosecution/appellant to prove that the respondent No.2-accused had either dispossessed or made any attempt to dispossess the appellant from any portion of land owned or possessed by him.

16. Taking the above discussed circumstances into consideration, this Court is of the opinion that the learned trial Court had rightly appreciated the evidence produced on record and committed no error in acquitting the respondent No.2. On reading of entire material, this Court finds that there is no perversity in the findings recorded by learned trial Court and there is no compelling reason to interfere with its judgment.

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Accordingly, it is held that no ground has been made out to allow the appeal. Finding no merit in the appeal, the same is dismissed.

09.01.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No