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High Court Of Punjab And Haryana At Chandigarh

Case No: CRM-A-379-MA of 2012

Ajit Singh	APPELLANT
Vs	
Jasleen Bhalla @ Sonu and Others	RESPONDENT

Date of Decision: Aug. 21, 2013

Acts Referred:

- Prevention of Corruption Act, 1988 - Section 3, 7

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Vijay, for Mr. Kulwant Singh in CRM-A-379-MA of 2012, for the Appellant; Gaurav Dhir, DAG, Haryana, for the Respondent

Final Decision: Dismissed

Judgement

Sabina, J.
Vide this judgment, above mentioned two applications would be disposed of. Vide Criminal Miscellaneous-A-379-MA of 2012, complainant has sought permission for grant of leave to appeal whereas, vide CRM-A-637-MA of 2012, State has sought grant of leave to file an appeal against the judgment of acquittal dated 20.03.2012. Prosecution story, in brief, is that on 23.08.2009, complainant Ajit Singh had gone to meet her friend Ekta in her house. On some issue, quarrel took place between them. Ekta made a phone call to the police. Four officials from Police Post Model Town came to her house. Complainant was threatened that he would be involved in a rape case. Complainant was made to sign two blank papers and thumb mark another one. Complainant handed over Rs. 6,00,000/- in cash, one gold chain along with locket and one gold ring to the police. All the said Articles were given to Sonu Bhalla (owner of Bhalla Jewellers). Complainant prayed that his articles be returned to him. On the basis of statement made by the complainant, formal FIR No. 206 dated 22.09.2010 was registered u/s 7/3 of the Prevention of Corruption Act, 1988 at Police Station SVB Ambala. After completion of investigation and necessary formalities, challan was presented in the Court. Vide the

impugned judgment, Trial Court acquitted the respondents/accused of the charges framed against them. Hence, the present applications by the State as well as by the complainant.

2. I have heard learned State counsel as well as counsel for the complainant and have gone through the record available on the file carefully.

3. The Trial Court while acquitting the accused of the charges framed against them held that there was inordinate delay in lodging of the FIR. The occurrence had allegedly taken place on 23.08.2009 whereas, complainant got recorded his statement on 17.09.2009. Ekta later died and complainant was facing the trial qua missing/murder of Ekta. It has also been noticed by the Trial Court that articles were recovered from Jasleen Bhalla on 25.11.2009 at the time of his arrest but were weighed on 24.11.2009. Further it was not understandable as to why Jasleen Bhalla was carrying the gold articles in his pocket after two months. Statement of Ekta was not recorded during investigation. DW1-Sukhwinder Singh, one of the signatories to the compromise allegedly effected between Ekta and Ajit deposed that nothing had transpired between complainant and the police officials regarding payment of money. In these circumstances, the learned Trial Court rightly held that the prosecution had failed to prove its case.

4. Thus, the reasons given by the trial court, while acquitting the respondents of the charges framed against them are sound reasons. Learned counsel for the applicant has failed to point out any misreading of evidence on record by the trial Court which would warrant interference by this Court.

5. Their Lordships of the Supreme Court in Allarakha K. Mansuri Vs. State of Gujarat, , held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

6. A Division Bench of this Court in State of Punjab Vs. Hansa Singh , while dealing with an appeal against acquittal, has opined as under:

We are of the opinion that the matter would have to be examined in the light of the observations of the Hon"ble Supreme Court in Ashok Kumar Vs. State of Rajasthan, , which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a misreading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

7. To the same effect is the ratio of the judgments of the Supreme Court in State of Goa Vs. Sanjay Thakran and Another, and in Chandrappa and Others Vs. State of Karnataka,

8. Similarly, in Mrinal Das & others v. The State of Tripura, 2011 (9) SCC 479, the Supreme Court, after looking into various judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

8) It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, being the final court of fact, is fully competent to re-appreciate, reconsider and review the evidence and take its own decision. In other words, law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial Court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons", for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

No ground is made out to grant leave to file the appeal. Accordingly, both these applications are dismissed.