

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1904 OF 2014

ROOPWANTI

... APPELLANT(S)

VERSUS

STATE OF HARYANA
AND ORS.

... RESPONDENT(S)

JUDGMENT

KRISHNA MURARI, J.

1. The instant appeal is directed against the judgment and final order dated 24.01.2013 passed by the High Court of Punjab & Haryana at Chandigarh, (hereinafter referred to as “**High Court**”) in Criminal Appeal No. 43/MA/2012 where the Respondent Nos. 2 to 6 were acquitted of the charges framed against them.

FACTS

2. Briefly, the facts relevant to the present appeal are that the respondents Nos. 2 to 6 herein, in furtherance of their common intention, attacked the

deceased on 22.12.2009. The deceased was then taken to a hospital where he later died the next day on 23.12.2009.

3. An FIR of the alleged incident was lodged on 22.12.2009 at Police Station Karnal City, registered as FIR No. 905 against the respondents herein under Sections 148,149,323,324,307,302 and 506 of the IPC, and the police began the investigation.
4. On completion of the investigation, a final report was presented in court, and the case was committed to the competent court for trial. The respondents were charge sheeted vide order dated 17.05.2010 to which they pleaded not guilty and sought for a full trial. After the appraisal of evidence, the trial judge found the case of the prosecution to be doubtful which ultimately resulted in the acquittal of all the respondent accused vide order dated 18.10.2011.
5. The Appellant herein aggrieved by the above-mentioned order of the Trial Court filed a criminal appeal. The High Court vide impugned order dated 24.01.2013 dismissed the appeal on grounds that judgment of acquittal passed by Trial Court was based on proper appreciation of evidence and facts and there was no error. Aggrieved, the Appellant has preferred the instant appeal.

ANALYSIS

6. In its reasoning for acquitting the respondents herein, the Trial Court in its findings held that none of the eyewitnesses were able to support the case of the prosecution. The court noted that Appellant, who is the mother of the deceased gave a completely different narration of events as compared to PW1. The Trial Judge also noted that the presence of the Appellant on the spot of the crime was also not proved, and that because she was mother of the deceased, hence, an interested witness and her evidence was not reliable. It was also observed that as per the Forensic Science Laboratory Report, no blood was present on the weapons recovered except for traces of blood on one lathi, and even that could not be linked with the blood of the deceased.

7. In cases where a reversal of acquittal is sought, the courts must keep in mind that the presumption of innocence in favour of the accused, on grounds of it surviving the rigours of a full trial, is strengthened and stands fortified. The prosecution then, while still working under the same burden of proof, is required to discharge a more onerous responsibility to annul and reverse the fortified presumption of innocence. This fortification of the presumption of innocence has been held in a catena of judgments by this court.

8. In the case of **Allarakha K. Mansuri Vs. State of Gujarat**¹, this Court has held that in cases of reversal of acquittal, where two views are possible, the view which favors the accused has to be adopted. For the sake of Convenience, the relevant paragraph of the judgment is being produced hereunder:

“The settled position of law regarding the powers to be exercised by the High Court in an appeal against the order of acquittal is that though the High Court has full powers to review the evidence upon which an order of acquittal is based, it will not interfere with an order of acquittal because with the passing of an order of acquittal the presumption of innocence in favour of the accused is reinforced. The High Court should be slow in disturbing the finding of the fact arrived at by the trial court. The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.”

9. Further, in the case of **Suman Chandra Vs. Central Bureau Of Investigation**² wherein the acquittal of the accused was challenged, this court held that while exercising its powers to reverse an acquittal, the order of the trial court must not only be erroneous, but also perverse and

1 2002(1) RCR(Criminal) 748

2 Criminal Appeal No.1645 of 2021

unreasonable. The relevant paragraph of the judgment is being extracted herein:

“It is well settled law that reversal of acquittal is permissible only if the view of the Trial Court is not only erroneous but also unreasonable and perverse. In our considered opinion, the view taken by the Trial Court was a possible view, which was neither perverse nor unreasonable, and in the facts and circumstances of the present case, ought not to have been reversed or interfered with by the High Court.”

10. Similarly in the case of ***Mrinal Das & Others Vs. The State of Tripura***³, this Court held that interference in a judgment of acquittal can only be made if the judgment is “clearly unreasonable” and there are “compelling and substantial reasons” for reversing the acquittal. The relevant paragraph of the judgment is being reproduced herein:

"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".

³ 2011(9) SCC 479

CONCLUSION

11. As can be seen from the above-mentioned judgments, an additional layer of protection is granted to an accused in cases where the accused already enjoys an acquittal. In the present case, we are in agreement with the decision of the High Court. From a perusal of the judgment of the Trial Court, it can be seen that no perversity has been committed by the Trial Court while reaching its conclusion. All the evidence on record has been carefully perused and a detailed analysis has been carried out to come to the conclusion.

12. In such circumstance, we find no reason to interfere with the decision of the Trial Court as well as the High Court. As a consequence, the appeal stands dismissed.

.....,J.
(KRISHNA MURARI)

.....,J.
(B.V.NAGARATHNA)

**NEW DELHI;
24TH FEBRUARY, 2023**