

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

Crl.Rev.No.1707 of 2001  
Date of decision : 18.2.2009

Surta Ram

... Petitioner

Versus

Baljit Singh and others

...Respondents

Coram : Hon'ble Mr.Justice Kanwaljit Singh Ahluwalia

Present: Mr.N.K.Suneja, Advocate for the petitioner.

Mr.S.S.Dinarpur, Advocate for the respondents.

**Kanwaljit Singh Ahluwalia, J. (Oral)**

Present revision petition has been filed by Surta Ram. He is aggrieved against the acquittal of the respondents namely Baljit Singh, Satish Kumar, Om Parkash, Smt.Sarjati, Puran Chand and Smt.Jaswanti.

The above said persons were tried as an accused in case of FIR No.145 dated 25.7.1998 registered under Section 306 IPC at Police Station Jhansa. Ganga Devi alias Rani was married with Baljit Singh accused, 5 years prior to the incident dated 20.7.1998. During subsistence of marriage, two female children were born out of this wedlock. Satish Kumar, accused is the younger brother of Baljit Singh; accused Puran Chand is the father; accused Smt.Sarjati is the mother; accused Smt.Jaswanti is the sister, whereas accused Om Parkash is the husband of Smt.Jaswanti.

It is stated that Ganga Devi alias Rani was taunted by the respondents for the reasons that she was not good looking and was uncivilized and uneducated. She was also harassed for giving birth to two daughters. The family of the accused wanted dissolution of the marriage as they intended to remarry Baljit Singh.

Ganga Devi alias Rani had two brothers, namely, Data Ram (PW-1) and Surta Ram (PW-2). Case of the prosecution is that 1-1/2 months prior to the occurrence, Smt. Ganga Devi alias Rani was residing with her parents. On 18.7.1998, she went to the house of her husband but she was not allowed to enter the house. She went to Naraingarh where her other sister Smt.Kamlesh Rani was residing. On 20.7.1998, her husband Baljit Singh came there and allegedly caused beatings to her. It is stated that on the same day i.e. 20.7.1998, Ganga Devi alias Rani boarded a bus from Naraingarh, to her parental house in village Ajrana Khurd. However, on the way she jumped into the canal at village Jhansa and this was witnessed by one Fakir Chand (PW-4) and he had lodged a report (Exhibit PB) of this incident to the police.

Even though the FIR was lodged but body after search was found floating near the canal on 25.7.1998. ASI-Baljit Singh (PW 11) after the dead body was recovered, conducted inquest proceedings. Autopsy of the dead body was conducted by Dr.P.K.Paliwal (PW 12), Associate Professor, Department of Forensic Medicines, Post Graduate Institute, Rohtak. It was a decomposed dead body. Thereafter, a report under Section 173 Cr.P.C. was submitted. The prosecution examined as many as 12 witnesses and also placed on the record the report of the Chemical Examiner (Exhibit PL). The accused persons were charged for the offence under Section 306 IPC. They admitted the relationship with her, but denied that she had been taunted and maltreated by them. They stated that Ganga Devi had gone to the canal to take bath, as well as to pay obeisance in the nearby temple and she might have fallen down in the canal and died due to the accidental slip.

Learned trial Court held that first of all, it is to be determined whether the deceased has committed a suicide or not. Relying upon the medical evidence and the observation of Investigating Officer, learned trial Court held that it is not a case of demand of dowry. Learned trial Court had drawn this inference taking into consideration the fact that when the dead body of the deceased was recovered, she was naked, therefore, it was presumed that she had accidental fall while taking bath. Therefore, suicide was ruled out. The learned trial Court further held that once suicide is not proved, no reliance can be placed upon the testimony of the brother of the victim against Jaswanti, sister of Baljit Singh, alongwith her husband Om Parkash accused who were residing at a long distance. Learned trial Court further took into consideration that marriage is 5-6 years old, at the time of incident, it has been admitted that first 2-3 years, Ganga Devi was kept nicely by the accused. In the present case, no State appeal has been filed, reasoning given by the trial Court cannot be said to be perverse. In view of the finding recorded by the courts below, no interference is warranted in this petition.

It was held in **AIR 1968 Supreme Court 707 Mahendra Partap Singh vs. Sarju Singh and another**, relying upon **D.Stephens vs. Nosibolla, AIR 1951 SC 196**, as under:

*“only two grounds are mentioned by this Court as entitling the High Court to set aside an acquittal in a revision and to order a retrial. They are that there must exist a manifest illegality in the judgment of the Court of Session ordering the acquittal or there must be a gross miscarriage of justice. In explaining these two propositions, this Court further states that the High Court is not entitled to interfere even if a wrong view of*

*law is taken by the Court of Session or if even there is mis-appreciation of evidence. Again, in Logendranath Jha v. Polajlal Biswas, 1951 SCR 676 (AIR 1951 SC 316), this Court points out that the High Court is entitled in revision to set aside an acquittal if there is an error on a point of law or no appraisal of the evidence at all. This Court observes that it is not sufficient to say that the judgment under revision is "perverse" or "lacking in true correct perspective". It is pointed out further that by ordering a retrial, the dice is loaded against the accused, because however much the High Court may caution the Subordinate Court, it is always difficult to re-weigh the evidence ignoring the opinion of the High Court. Again in K.Chinnaswamy Reddy v. State of Andhra Pradesh, 1963 (3) SCR 412 = (AIR 1962 SC 1788), it is pointed out that an interference in revision with an order of acquittal can only take place if there is a glaring defect of procedure such as that the Court had no jurisdiction to try the case or the Court had shut out some material evidence which was admissible or attempted to take into account evidence which was not admissible or had overlooked some evidence. Although the list given by this Court is not exhaustive of all the circumstances in which the High Court may interfere with an acquittal in revision it is obvious that the defect in the judgment under revision must be analogous to those actually indicated by this Court. As stated not one of these points which have been laid down by this Court, was covered in the present case. In fact on reading the judgment of the High Court it is apparent to us that the learned judge has re-weighed the evidence from his own point of view and reached inferences contrary to those of the Sessions*

*judge on almost every point. This we do not conceive to be his duty in dealing in revision with an acquittal when Government has not chosen to file an appeal against it. In other words, the learned Judge in the High Court has not attended to the rules laid down by this Court and has acted in breach of them.”*

**In Akalu Ahir v. Ramdeo Ram, AIR 1973 Supreme Court**

**2145 (V 60 C 352)**, Hon'ble apex Court observed as under:

*“This Court then proceeded to observe that the High Court is certainly entitled in revision to set aside the order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal, but it was emphasized that this jurisdiction should be exercised only in exceptional cases when “there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice.” In face of prohibition in Section 439(4), Cr.P.C., for the High Court to convert a finding of acquittal into one of conviction, it makes all the more incumbent on the High Court to see that it does not convert the finding of acquittal into one of conviction by the indirect method of ordering re-trial. No doubt, in the opinion of this Court, no criteria for determining such exceptional cases which would cover all contingencies for attracting the High Court’s power of ordering re-trial can be laid down. This Court, however, by way of illustration, indicated the following categories of cases which would justify the High Court in interfering with a finding of acquittal in revision:*

- (i) *Where the trial Court has no jurisdiction to try the case, but has still acquitted the accused;*

- (ii) *Where the trial Court has wrongly shut out evidence which the prosecution wished to produce;*
- (iii) *Where the appellate Court has wrongly held the evidence which was admitted by the trial Court to be inadmissible;*
- (iv) *Where the material evidence has been over-looked only (either?) by the trial Court or by the appellate Court; and*
- (v) *Where the acquittal is based on the compounding of the offence which is invalid under the law.*

*These categories were, however, merely illustrative and it was clarified that other cases of similar nature can also be properly held to be of exceptional nature where the High Court can justifiably interfere with the order of acquittal. In Mahendra Pratap Singh, (1968) 2 SCR 287 = (AIR 1968 SC 707) (supra) the position was again reviewed and the rule laid down in the three earlier cases reaffirmed. In that case the reading of the judgment of the High Court made it plain that it had re-weighed the evidence from its own point of view and reached inferences contrary to those of the Sessions Judge on almost every point. This court pointed out that it was not the duty of the High Court to do so while dealing with an acquittal on revision, when the Government had not chosen to file an appeal against it. "In other words" said this Court, "the learned Judge in the High Court has not attended to the rules laid down by this Court and has acted in breach of them."*

Similar view was reiterated by Hon'ble apex Court in **Bansi Lal and others vs. Laxman Singh, (1986) 3 Supreme Court Cases 444.**

Again, Hon'ble apex Court, in **Ramu alias Ram Kumar and others, 1995 Supreme Court Cases (Cri) 181**, held that it is well settled that the revisional jurisdiction conferred on the High Court should not be

lightly exercised particularly when it has been invoked by a private complainant. In **Vimal Singh vs. Khuman Singh and another, (1998) Supreme Court Cases (Cri) 1574** and in **Bindeshwari Prasad Singh vs. State of Bihar, 2002 AIR (SC) 2907**, the High Court has been reminded of its very limited jurisdiction in revision against acquittal.

It is well settled that unless any legal infirmity in the procedure or in the conduct of trial or patent illegality is pointed out, the revisional Court will not interfere.

I find no merit in the instant revision petition to interfere while exercising revisional jurisdiction as learned counsel for petitioner has failed to point out any illegality or irregularity.

There is no merit. Present revision petition is dismissed.

**Kanwaljit Singh Ahluwalia ]**  
**Judge**

18.02.2009

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