

CrPC S. 378 - Scope Of Interference By The Appellate Court In An Order Of Acquittal

The scope of interference by the appellate court in an order of acquittal is beautifully summed up in the case of **Sanwat Singh v. State of Rajasthan, 1961 SCR (3) 120** in the following words:

"The foregoing discussion yields the following results: (1) an appellate court has full power to review the evidence upon which the order of acquittal is founded; (2) the principles laid down in Sheo Swarup's case afford a correct guide for the appellate court's approach to a case in disposing of such an appeal; and (3) the different phraseology used in the judgments of this Court, such as, (i) "substantial and compelling reasons", (ii) "good and sufficiently cogent reasons", and (iii) "strong reasons" are not intended to curtail the undoubted power of an appellate court in an appeal against acquittal to review the entire evidence and to come to its own conclusion; but in doing so it should not only consider every matter on record having a bearing on the questions of fact and the reasons given by the court below in support of its order of acquittal in its arriving at a conclusion on those facts, but should also express those reasons in its judgment, which lead it to hold that the acquittal was not justified."

This legal position is reiterated in **Govindaraju @ Govinda v. State by Srirampuram Police Station and another, (2012) 4 SCC 722** and the following passage therefrom needs to be extracted:

"12. The legislature in its wisdom, unlike an appeal by an accused in the case of conviction, introduced the concept of leave to appeal in terms of Section 378 Cr.P.C. This is an indication that appeal from acquittal is placed on a somewhat different footing than a normal appeal. But once leave is granted, then there is hardly any difference between a normal appeal and an appeal against acquittal. The concept of leave to appeal under Section 378 Cr.P.C. has been introduced as an additional stage between the order of acquittal and consideration of the judgment by the appellate court on merits as in the case of a regular appeal. Sub-section (3) of Section 378 clearly provides that no appeal to the High Court under sub-section (1) or (2) shall be entertained except with the leave of the High Court. This legislative intent of attaching a definite value to the judgment of acquittal cannot be ignored by the courts."

13. Under the scheme of CrPC, acquittal confers rights on an accused that of a free citizen. A benefit that has accrued to an accused by the judgment of acquittal can be taken away and he can be convicted on appeal, only when the judgment of the trial court is perverse on facts or law. Upon examination of the evidence before it, the appellate court should be fully convinced that the findings returned by the trial court are really erroneous and contrary to the settled principles of criminal law."

The Court also took note of earlier precedents and summarised the legal position laid down in those cases, in the following words:

"17. If we analyse the above principle somewhat concisely, it is obvious that the golden

thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in a 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.

18. There are no jurisdictional limitations on the power of the appellate court but it is to be exercised with some circumspection. The paramount consideration of the court should be to avoid miscarriage of justice. A miscarriage of justice which may arise from the acquittal of guilty is no less than that from the conviction of an innocent. If there is miscarriage of justice from the acquittal, the higher court would examine the matter as a court of fact and appeal while correcting the errors of law and in appreciation of evidence as well. Then the appellate court may even proceed to record the judgment of guilt to meet the ends of justice, if it is really called for.

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22. A very vital distinction which the court has to keep in mind while dealing with such appeals against the order of acquittal is that interference by the court is justifiable only when a clear distinction is kept between perversity in appreciation of evidence and merely the possibility of another view. It may not be quite appropriate for the High Court to merely record that the judgment of the trial court was perverse without specifically dealing with the facets of perversity relating to the issues of law and/or appreciation of evidence, as otherwise such observations of the High Court may not be sustainable in law."

In [**Ramesh v. State of Haryana, 2016 SupremeCourtOnline 0109, PLRonline # 310901**](#), the court held :

24. The appellate court, therefore, is within its power to re appreciate or review the evidence on which the acquittal is based. On reconsideration of the evidence on record, if the appellate court finds the verdict of acquittal to be perverse or against the settled position of law, it is duly empowered to set aside the same. On the other hand, if the trial court had appreciated the evidence in right perspective and recorded the findings which are plausible and the view of the trial court does not suffer from perversity, simply because the appellate court comes to a different conclusion on the appreciation of the evidence on record, it will not substitute its findings to that of findings recorded by the trial court.

25. In the instant case, we find that the High Court has interfered on the ground that the very approach of the trial court in appreciating the evidence on record was legally unsustainable. If such observations of the High Court are correct, it was fully justified in interjecting with the verdict of the trial court.