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

CRR-903-2016

Date of decision-03.07.2019

Gurmukh Chand

....Petitioner

Vs.

Ram Chand and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S.Chauhan, Advocate for the petitioner.

MANOJ BAJAJ, J.

This revision petition has been filed against the judgment of acquittal recorded by learned Judicial Magistrate First Class, Fazilka dated 26.07.2013 in FIR No.74 dated 13.03.2007 registered under Sections 379, 427, 447, 511 and 148 read with Section 149 of Indian Penal Code at Police Station Sadar Fazilka and judgment dated 18.11.2015 passed by learned Additional Sessions Judge, Fazilka whereby the appeal referred by the petitioner against judgment dated 26.07.2013 of the trial Court stands dismissed.

Learned counsel for the petitioner contends that the Courts have erred in acquitting the respondents on the ground that no independent witness was examined by the prosecution to corroborate its version. It was further wrongly held that the prosecution has not proved the ownership of the stolen articles and actual value thereof. It is submitted that the petitioner has specifically said in his affidavit that he is in possession of 08 marla of

the land for the last so many years and in this regard agreement was entered on 20.11.2002 whereby respondent-Ram Chand had undertaken not to interfere in the peaceful possession of the petitioner. However, the respondents did not honour the agreement and cow-dung (roori) was stolen by the respondents in the presence of eye-witness, namely, Parampal, PW-5. Learned Courts below did not appreciate the fact that in order to corroborate his version, the petitioner had examined other witnesses i.e. Rattan Singh, Inspector (retired) as PW-1, Tilak Raj, Inspector (retired) as PW-2 and Pardeep Singh, Inspector as PW-3 who all proved the registration of FIR, arrest of respondents/accused and preparation of site plan etc.

I have heard learned counsel for the petitioner and perused the case file carefully.

After hearing learned counsel, this Court finds that trial Court has carefully examined the evidence on record and proceeded to hold that the place from where the alleged theft took place was not in possession of the complainant. Reliance was placed upon the affidavit dated 15.11.2002 allegedly sworn by accused Ram Chand where they had undertaken not to interfere in the possession of the plot. However, the said affidavit has not been produced before the Court. Besides, the trial Court had rightly relied upon the jamabandi produced by the accused to hold that the land in question was “gair mumkin rasta” and as per the revenue record, the said property is owned by Provincial Government.

In view of the above, it apparent that the trial Court had adopted a possible view which is emerging from the evidence on record and

therefore, this Court does not find any reason to interfere with the trial Court judgment.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

03.07.2019

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No