

CRA-S No.1444-SB of 2014 (O&M)

2023:PHHC:155028

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

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CRA-S No.1444-SB of 2014 (O&M)
Date of Decision: 05.12.2023

B.R. DALAL

.....Appellant

Vs

STATE OF HARYANA AND ORS.

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gagandeep Singh, Advocate (Legal Aid Counsel)
for the appellant.

Mr. Viney Phogat, D.A.G., Haryana.

HARKESH MANUJA, J. (Oral)

[1]. By way of present appeal, challenge has been laid to the judgment dated 03.12.2013 passed by the Sub-Divisional Judicial Magistrate, Safidon, whereby the private respondents were acquitted of the charges against them, arising out of FIR No.39 dated 21.02.2009 registered under Section 379 IPC at Police Station Pillukhera, District Jind.

[2]. I have heard learned counsel for the parties and gone through the paper book as well as the records of this appeal.

[3]. Perusal of the judgment dated 03.12.2013 passed by the Trial Court would show that the appellant/complainant appeared as a prosecution witness (PW-3) and failed to identify the private respondents as accused, who committed theft, rather he categorically deposed that the private respondents were merely labourers and they did not commit any theft of sand. He also stated that in fact, the

Investigating Agency did not initiate any action against the actual theft. The acquittal of private respondents by the trial Court was based on the aforesaid statement made by the appellant/complainant. Relevant part of the order reads as under:-

“PW-3. B.R. Dalal, complainant has also failed to identify the accused persons as the alleged thieves. He further went upon to depose that the accused persons were only labourers and in fact, they had not committed any theft of sand. He further went upon to depose that the police had not initiated any action against the actual thieves. This witness has further deposed that the police had recorded the disclosure statement of accused Goli Ex.PC and he had also put signatures thereupon, however, the police had destroyed the original disclosure statement and later on, went upon to record afresh as its own requirement. This fact puts the disclosure statement Ex.PC in doubts and also creates serious doubts upon the investigations conducted by the police.”

[4]. In view of above, finding no illegality and perversity in the impugned order dated 03.12.2013 passed by the Sub-Divisional Judicial Magistrate, Safidon, this appeal is dismissed.

December 05, 2023
Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No