



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

CRR-423-2017

Date of decision: 25.09.2024

Harbans Kaur

...Petitioner

Versus

Neeru Chopra and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Sukhdeep Singh, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana for respondent No.3-State.

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**KARAMJIT SINGH, J. (ORAL)**

1. The present revision petition has been filed by the petitioner/complainant against judgment dated 03.11.2016 passed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari vide which the appeal filed by the petitioner against the judgment dated 27.07.2013 passed by the Court of Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari whereby accused/respondent No.1 and 2 were acquitted in a criminal case having FIR No.176 dated 16.05.2010 under Sections 454, 380 IPC, Police Station Farakpur, has been dismissed.

2. The brief facts of the case of prosecution are that petitioner lodged complaint with the police wherein it was alleged that she was in occupation of a room and a kitchen being tenant under respondent No.1 and landlord asked the petitioner to vacate the premises. The petitioner requested him to give her some time to do so as she was not able to find any alternative accommodation. On this, civil litigation was initiated by respondent No.1. That on 15.02.2010, the petitioner and other members of his family were away and in their absence, during the night time, respondents No.1 and 2 along with 2/3 other persons broke open the lock and took away the household articles lying therein including refrigerator, cooler, television, almirah, two gas cylinder, gas stove, DVD player and some jewellery etc. On the basis of the said complaint, FIR was registered on 16.05.2010. During



investigation, accused were arrested and stolen articles were recovered. On completion of investigation, police presented final report under Section 173 Cr.P.C against respondents No.1 and 2.

3. On finding a *prima facie* case, charges under Sections 454 and 380 IPC were framed to which respondents No.1 and 2 pleaded not guilty.

4. In order to prove its case, prosecution examined 4 witnesses in all. Complainant Harbans Kaur appeared as PW-1 and she reiterated the allegations made by her in complaint Ex.P-A and FIR. She also proved memo Ex.P-D vide which she took her recovered articles on superdari. Krishan Lal appeared as PW-2 and he stated that the incident of theft was witnessed by him. SI Arvind Kumar, Investigating Officer, appeared as PW-3 and he proved the investigation which was carried out by him. He proved complaint Ex.P-A, formal FIR Ex.PW-3/B, rough site plan of place of occurrence Ex.PW-3/D. He also deposed regarding arrest of both the accused and recovery memo Ex.P-C vide which the recovered stolen articles were taken into possession by the police and memo Ex.P-D vide which the said articles were taken on superdari by the complainant. SI Radhey Shyam appeared as PW-4 and he deposed regarding arrest of both the accused.

5. The Public Prosecutor gave up PWs Chaman Lal and SI Jai Pal being unnecessary witnesses and closed the prosecution evidence.

6. Thereafter, respondents No.1 and 2 were examined under Section 313 Cr.P.C and the entire incriminating material was put to them but they denied the same and pleaded innocence and false implication. Respondents No.1 and 2 did not lead any evidence in their defence.

7. After taking into consideration, the evidence available on the record, the learned trial Court acquitted respondents No.1 and 2 vide judgment dated 27.07.2013. Being aggrieved, petitioner preferred an appeal which was dismissed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari vide judgment dated 03.11.2016.

8. The present revision petition has been filed by the petitioner to challenge the judgment dated 27.07.2013 passed by the trial Court and judgment dated 03.11.2016 passed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari.



9. The counsel for the petitioner submits that incident of theft was witnessed by PW-2 Krishan Lal and thereafter, the stolen goods were recovered at the instance of accused persons and same were identified by the complainant who appeared in the witness box as PW-1. It is further submitted that the entire investigation was carried out by PW-3 SI Arvind Kumar. It is further submitted that trial Court and the Court of Additional Sessions Judge failed to appreciate the evidence available on the record in right perspective. That the case of the prosecution/complainant stands fully proved and impugned judgments passed by the trial Court and that of Additional Sessions Judge are not sustainable. The present revision petition be allowed and respondents No.1 and 2 be convicted and sentenced to imprisonment.

10. The counsel appearing on behalf of respondent No.3-State has also argued on the same lines.

11. I have considered the submissions made by counsel for the petitioner.

12. In ***Ramesh Babu Lal Doshi Vs. State of Gujarat (1996) 9 SCC 225*** Hon'ble Supreme Court has taken the view that while considering the appeal against acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable and if the appellate Court answers the above question in negative, the order of acquittal cannot be disturbed.

13. Further, it is also settled position of law that in case of acquittal by the trial Court, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless, he is proved guilty by a competent Court of law. Secondly, the accused having secured acquittal, the presumption of their innocence is further re-affirmed and re-inforced by the trial Court.

14. In the instant case, respondents No.1 and 2 were charged under Sections 380 IPC and 454 IPC. On conclusion of trial, both of them were acquitted by the trial Court. Even the appeal preferred by the complainant/petitioner against the said judgment of trial Court dated



27.07.2013 was also dismissed by the Court of Additional Sessions Judge vide its judgment dated 03.11.2016.

15. Admittedly, in the instant case, the petitioner had taken premises in question on rent from respondent No.1. The petitioner was asked to vacate the said premises but she requested for time to shift to some other place. In the meantime, respondent No.1 took legal recourse and approached the Civil Court/Rent Controller seeking eviction of the petitioner. This fact falsifies the entire prosecution story. The petitioner as well as prosecution has failed to explain that if respondent No.1 had already approached the Court seeking legal remedy against the petitioner, then where was the occasion for respondent No.1 to take law into his own hands by breaking open the lock of premises in question and to remove articles belonging to the petitioner lying therein, as has been alleged in complaint Ex.P-A and FIR Ex.PW-3/B.

16. I have also gone through the evidence available on the record and is of the view that the trial Court and the Court of Additional Sessions Judge came to right conclusion on the basis of the evidence available on the record. Thus, there is no ground made out to disturb the findings of acquittal recorded by the learned trial Court and the Court of Additional Sessions Judge, respectively. Both the Courts below rightly observed that much weightage cannot be given to the deposition of PW-2 Krishan Lal, who was found to be an interested witness. Admittedly, complainant had not witnessed any such alleged occurrence. Further, both the Courts below rightly disbelieved the factum of recovery of alleged stolen articles from possession of the accused, there being no independent corroboration to the same. Thus, the prosecution failed to prove its case beyond doubt.

17. In the light of the above, there is no justification in interfering with the judicious findings given by the learned trial Court and affirmed by the Court of Additional Sessions Judge.

18. Consequently, the present revision petition is hereby dismissed being devoid of merits.

**25.09.2024**

*Yogesh*

**(KARAMJIT SINGH)**  
**JUDGE**

**Whether speaking/reasoned:-**  
**Whether reportable:-**

**Yes/No**  
**Yes/No**