

**CRR-160-2025****1****257****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-160-2025****Date of decision:19.02.2025****CHANDRA SHEKHAR SEN****..Petitioner****Versus****GAFFAR AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR, (ORAL).

1. This revision petition has been filed by the petitioner against the judgment of acquittal dated 28.11.2024 passed by learned Additional Sessions Judge, Faridabad.

2. The case of the prosecution is that a complaint had been presented by the complainant Sh.Chander Shekhar, to the concerned Police Station against Umardeen and Gaffar, while stating therein that Umardeen had offered for sale a plot measuring 100 sq. yards, in Shururpur Industrial Area and had owed its liability. On his assurance, the complainant purchased the aforesaid plot from Gaffar. The sale deed of the said plot was executed in his favour (i.e. of the complainant) vide sale deed No.13819 dated 24.02.2009, on payment of sale consideration of Rs. 2 lakh. However, after registration of the sale deed, when he went to village Sharurpur, to know about his plot No.290, the villagers disclosed that the accused persons had cheated him, as they had no right to sell the plot. Accused Gaffar was not the owner of the Khasra numbers as mentioned in the sale deed. They had

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assured, to return his money but to no avail. Hence, the complainant got registered the FIR.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that respondent-accused Gaffar had executed the registered Sale Deed dated 24.02.2009-Ex.PW1/A qua his share only, in favour of the complainant for a total sale consideration of Rs.2 lakh only. It was also, an admitted fact that the father of respondent-accused Gaffar, had already expired, at the time of execution of the aforesaid registered Sale Deed. Further prosecution witness/Patwari/PW3 had duly admitted to have prepared the aforesaid Goshwara-Ex.D1 bearing his signatures, whereby the father of respondent-accused Gaffar, was recorded as owner of the said land, to the extent of 2/3 share. Therefore, the respondent convict-Gaffar had become the owner of 2/3 share in total land measuring 3 Kanals-14 Marlas, as per the Goshwara-Ex.D1, after the death of his father by way of succession/inheritance. Therefore, the claim raised by the respondent-accused Gaffar that he was the owner of the plot, as mentioned in the complaint was not found to be wrong or misleading, to induce the complainant to purchase the same, for valuable sale consideration of the aforesaid amount. The respondent-accused Gaffar had induced the complainant/PW10, to be an owner of the aforesaid land, measuring 100 sq.yards at Sarurpur Industrial Area, Faridabad, by showing some papers/documents, it was noted that as per the own testimony of PW10, he had neither verified those documents nor given the same, to the police since he was not in custody, thereof. Hence, there was no cogent document either available on case record, to hold an opinion



that respondent-accused Gaffar or Umardeen had committed the offence of forgery, fabrication, as alleged. As regards, the act of executing the aforesaid registered Sale Deed-Ex. PW1/A of the aforesaid plot measuring 100 sq. yards by the owner Gaffar, in favour of the complainant/PW10, without having been sanctioned a Mutation of Inheritance, in his favour, being the main bone of contention of the prosecution case, the prosecution has failed to prove the element of "dishonest intention" of Gaffar, since the beginning of his meeting with the complainant, to commit the offence of cheating, to sell his plot, of which he was certainly, an owner, after the death of his father, in lieu of, sale consideration of Rs. 2 lakh only. The aforesaid finding is strengthened by the fact that the complainant/PW10 had stated in his testimony that he had visited the plot sold to him and, informed also, by the villagers about the title of Gaffar, after the sale was finalized between him and Gaffar. Whereas, the principle of Buyer's Beware, was applicable, to the complainant/PW10, being a vendee and, it was his duty, to confirm the title of the vendor (i.e. accused Gaffar), before proceeding to execute the registered sale deed, on payment of the sale consideration of aforesaid amount, to the vendor (i.e. accused Gaffar). Hence, the vendee/complainant/PW10 could not take advantage of his own wrong later, by alleging that he had been sold a property by a person, who was even not its owner. It is not the case of the prosecution that Gaffar sold the entire joint land, to PW 10. Hence, the land, to the extent of his own share (i.e. 2/3 share), in 3 Kanals-14 Marlas of land, sold by Gaffar, to the complainant/PW 10 for a sum of Rs.2 lakh only, after the death of his father, could not be deemed to have fallen within the ambit of the offence of Cheating either



since the mere irregularity in the title of convict Gaffar as per revenue record, could have also been easily, rectified or updated by the vendee/PW 10 or by vendor Gaffar, on the request of PW 10 even after the execution of the aforesaid registered sale deed. Hence, the vendee/PW 10 hastened to lodge the complaint against the vendor Gaffar, on the basis of which even the FIR was registered by the police of given jurisdiction. Nothing has been proved either against the respondent-accused, namely Umardeen.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (**See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others** passed CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate



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Court which warrants interference by this Court. As such, there is no merit in the present petition and hence, the revision petition is dismissed.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

19.02.2025
Poonam

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No