

**CRM-A-333-MA-2014 (O&M)****1****139****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-A-333-MA-2014 (O&M)****Date of Decision: 22.05.2025****VISHNU MEHTA****...Petitioner****Versus****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Veneet Sharma, Advocate
for the applicant.

Mr. Nitesh Sharma, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)**

1. This application under Section 378(4) of Cr.P.C. has been filed seeking grant of leave to appeal against the judgment of acquittal dated 29.01.2014 passed by learned Sub Divisional Judicial Magistrate, Ajnala, vide which respondents No. 2 to 7 have been acquitted.

2. Brief facts of the case are that the petitioner is owner in possession of Land measuring 17 kanals 15 marlas bearing khasra no. 52//16, 14 min, 3//2, khata khatoni No. 29/62, 69, 23/51 as per Jamabandi for the year 2002-2003, situated at Village Mudh Bhilowal, Tehsil Ajnala, Distt. Amritsar. Previously it was the ownership of his father Surinder Mohan Mehta which came into his share and after his death he along with his mother Uma Mehta and Sister Sri Mehta is in possession of the land and they are in cultivating possession thereof. Rai Sahib Mehta (respondent No. 2) and his three sons wanted to take forcible possession from them. He has already obtained stay order regarding this land from learned Civil Judge (Junior Divison), Ajnala restraining the private respondents from interfering into their possession and from dispossessing them. On 23.04.2008, at about 6:00 PM he along with his wife Amita Mehta reached

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to his above said land and saw that Rai Sahib Mehta-respondent No. 2 and his sons Ranjit Rai Mehta, Sanjeev Rai Mehta and Kanwar Rai Mehta (respondents No. 3 to 5) came on car bearing no. PB-02-AL-2403 and tractor being driven by Bhagwan Singh (respondent No. 6), attached with a trolley and Surinder Mohan (respondent No. 7) was sitting on it. They also brought with them combine. Rai Sahib Mehta was armed with revolver and Sanjeev Rai Mehta armed with 12 bore gun, Ranjeet Rai Mehta and Kanwar Rai Mehta were armed with *kirpans*. Bhagwan Singh was armed with *datar* and Surinder Mohan was empty handed. They forcibly entered into their land and started harvesting their wheat crop. Sanjeev Rai Mehta after keeping his gun on the neck of petitioner said that if they want to save their life, they should go from there, otherwise they will kill them. The private respondents in their presence harvested their land and took away the produce with them. On the basis of aforesaid allegations, complaint in the present case was filed.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that Vishnu Mehta (petitioner) and respondent No. 1 are recorded as co-sharers in the joint land and complainant-petitioner admitted during his cross-examination that no partition has been effected by any Court. The complainant has alleged a family partition of the joint land, but the above family partition is not reflected anywhere in the revenue record, meaning thereby as per the revenue record, respondent No. 1 is co-sharer with the petitioner and the said revenue record has no relevancy with the alleged occurrence dated 23.04.2008. Thus, it has come on record that petitioner has proved his possession over the land bearing Khasra No. 52//16, 14 min, 15 min, 3//2 khata khatauni No. 29/62, 69, 23/51. Further, the petitioner and Amrik Singh CW-2 have tried to prove the allegations levelled in the

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complaint, but as per the evidence of both the witnesses, a road adjoins to the place of occurrence and people were passing through the above road, but no independent witness out of those people has been examined by the petitioner to support his case. The petitioner has examined Amrik Singh as an eye witness of the said occurrence, but the presence of said Amrik Singh is doubtful at the time of occurrence, because as per Vishnu Mehta, Amrik Singh was already present before their arrival at the place of occurrence, but as per Amrik Singh Vishnu Mehta and others were present 1/2 hour prior to his arrival at the place of occurrence and the said contradiction regarding the time and arrival of Amrik Singh at the place of occurrence is a material contradiction. Moreover, it is an admitted position that Amrik Singh is servant of petitioner and therefore, there is every possibility that he deposed in favour of the petitioner as an interested witness. Further petitioner has alleged that he moved an application before the police Station Lopoke, on the date of occurrence, but no such application has been placed on record. Moreover, the said complaint has been filed after a delay of 12 days from the date of occurrence and no explanation has been furnished in this regard by the petitioner as to what prevented him from filing the complaint earlier. Further, there is no allegation as well as evidence with regard to the fact that private respondents caused any injury on the person of petitioner, his wife Amita Mehta and eye witness Amrik Singh and it is not possible that 4/5 persons armed with deadly weapons came at the place of occurrence and have not caused any injury on the person of petitioner and others. Further, the petitioner has failed to prove that private respondents have cut down the wheat crop from the said land and have taken away the same by loading it in their trolley, especially when petitioner could not tell any *marka* of the combine and tractor and has not mentioned about the identity of the driver of the combine.



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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 of **State of Haryana Vs. Ankit and others** passed in 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 trial Court which warrants interference by this Court. As such, there is no merit in the present application seeking leave to appeal and hence, the same is hereby dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

22.05.2025
Ajay Goswami

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>