257 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

CRR-1323-2012 (O&M)
Date of Decision: 30.01.2025

ROOP RAM

...Petitioner

Versus

STATE OF HARYANA AND OTHERS **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Gurpreet Kaur, Advocate for
Mr. P.K. Ganga, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

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Harpreet Singh Brar, J. (Oral)

1. This revision petition has been filed against the judgment dated 20.03.2012 passed by learned Sessions Judge, Sirsa vide which the judgment of acquittal dated 03.09.2010 passed by learned Sub Divisional Judicial Magistrate, Dabwali has been upheld.

2. Briefly stated, the case of the prosecution as made out from complaint given by the complainant-Roop Ram is that on 18.4.2006 at around 4.00 a.m. in the morning they had planted plants and had also planted *Narma* (raw cotton) in his fields. The accused persons-private respondents took away the planted plants and also damaged the Narma crop with the tractors. His brother Ganga Ram was in the fields at that time. The accused persons had come on three tractors. Out of them one of the tractors was having trolly and other tractors were having cultivator attached behind the same. His brother Ganga Ram was sleeping in the fields when the accused had harvested wheat crop and he was

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2025.01.31 18:30
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looking after the same. On hearing the noises he woke up and saw that 10-12 persons were uprooting the plants and some of them were damaging the Narma Crop. His brother does not know all of them and he identified only three persons, namely, Ram Sarup son of Ranjit, Anil son of Jagdish, and Ved Parkash son of Jai Narain. He was standing there but could not identify the accused persons. On the basis of aforesaid allegations FIR in the present case was registered against accused. The investigation of the case was initiated. During investigation, the accused were arrested and subsequently released on bail. On completion of investigation, the challan against the accused was forwarded to the court.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that learned trial Court opined that no detail of the land has been given by the complainant as to on which land the said occurrence had taken place. Further in his cross-examination, complainant admitted that his brother did not tell the name of accused persons correctly and it was found not understandable that how the complainant had given the name of accused persons-private respondents when the complainant himself had not witnessed the incident. Further the complainant admitted in his cross-examination that the owners of the land in dispute were never in possession of the same. Further the complainant failed to produce on the file the khasra girdawri relating to the said crop, when the alleged incident took place. Only one khasra girdwari had been tendered in prosecution evidence, which is from kharif 1997-2002, whereas the alleged incident took place on 18.04.2006. Thus, the prosecution had failed to corroborate the said incident by any documentary evidence on the file. Moreover, the complainant had failed to

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prove his possession over the land in dispute when the alleged incident took place and further from the statement of complainant and his brother, the said incident was found to be doubtful as there were so many contradictions in their testimonies. Thus, learned trial Court has rightly acquitted the accused persons-private respondents as the prosecution has failed to prove its case beyond the shadow of reasonable doubt.

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

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

(HARPREET SINGH BRAR)
JUDGE

30.01.2025
Ajay Goswami

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*

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