

**CRR-1262-2014 (O&M)****-1-****240 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRR-1262-2014 (O&M)
Date of Decision: 19.02.2025****TARA SINGH****...Petitioner****V/S****STATE OF PUNJAB AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. A.P.S. Tung, Advocate
for the petitioner.****Mr. Nitesh Sharma, DAG Punja.****Mr. Ramandeep, Advocate
for respondents No. 2 to 5.*************HARPREET SINGH BRAR J. (Oral)**

1. This revision petition has been filed by the petitioner against the judgment of acquittal dated 28.11.2013 passed by learned Judicial Magistrate Ist Class, Fatehgarh Sahib and the said judgment was upheld by learned Additional Sessions Judge, Fatehgarh Sahib vide judgment dated 21.02.2014.

2. The case of prosecution as per version of complainant Tara Singh recorded to ASI Harwinder Singh on 26.07.2010 is that the complainant was agriculturist by profession and was having 20-22 acres of land at Sukh Rambagh near defence band Sirhind Mandi. The complainant had mango trees in his land which had fallen about 2 months ago due to storm. On 26.7.2010, when the complainant went to his field, he found that 2 limbs of mango tree of about 20 quintal were missing. The complainant got confirmed that 20 quintal of limbs were stolen by the private respondents-Satya Devi wife of Kaka Ram and Tonna, Shayama and Meeka

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sons of Kaka Ram residents of near defence band without informing complainant. The complainant recorded his statement to the said effect to ASI Harwinder Singh and signed the same in token of correctness. The FIR under the said offence was registered and the investigation of the case was conducted.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that prosecution has not placed on record any document from where it could be inferred that the complainant is owner or in possession of the property alleged to be stolen by the accused persons. Since the basic ingredient is missing and once the possession of the stolen property is not proved, the question of retaining the same to be stolen property does not arise. Further, the fact of recovery of stolen property is also doubtful as the IO of the present case has deposed that he along with other police officials and Rajinder Mohan PW-2 went to the place of occurrence upon their own vehicles whereas the independent witness has deposed that they have gone there by foot. Further the complainant had deposed that the wooden logs were taken out from khatans with the help of Labour arranged by the IO, whereas the sole eye witness has deposed that the case property was taken out by the accused persons. Moreover, no mark or slip was pasted on the alleged stolen wooden log. Thus, learned trial Court found many discrepancies in the testimonies of witnesses and the question of possession of stolen property i.e. wooden log in the hands of private respondents did not arise.

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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 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 Courts below 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.

(HARPREET SINGH BRAR)
JUDGE

19.02.2025
Ajay Goswami

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