

**CRR-1505-2023 (O&M)****1****265****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-1505-2023 (O&M)****Date of Decision: 28.01.2025****RAMAN KUMAR****...Petitioner****Versus****STATE OF PUNJAB AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Prince Sharma, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

*********Harpreet Singh Brar, J. (Oral)****CRM-26652-2023**

Allowed as prayed for and delay of 44 days in filing the accompanying revision petition is condoned.

CRR-1505-2023

1. The present revision petition has been filed against the judgment dated 04.01.2023 passed by learned Principal Magistrate Juvenile Justice Board, Tarn Taran vide which the respondent No. 2 has been acquitted in the FIR No. 14 dated 08.03.2020 under Sections 307, 452, 323, 34 of Indian Penal Code and Sections 25, 27, 54 and 59 of Arms Act registered at Police Station Khalra District Tarn Taran.

2. Briefly stated facts of the case of the prosecution are that on 08.03.2020, SI/SHO Harpreet Singh along other police officials ASI Gursahib Singh, HC Satnam Singh, Lovebir Singh, PHG Sukhbir Singh on government vehicle bearing No.PB46-W-1816 went to Guru Nanak Dev Government Hospital, Amritsar where he took written permission of Doctor to record the

Statement of the victim and Doctor declared victim to be fit to record the

statement. So, victim Raman Kumar got recorded his statement to ASI to the effect that "He is resident of Mari Udoki. He has four brothers and one sister and younger sister is Rajni. Complainant is 10th class passed and runs grocery shop in his village. On dated 06.03.2020 at about 11:00 A.M., his sister Rani Bala and his brother Sonu were playing in their house and thereafter coin Sparrow (Chidi) was fell down in the house of neighbour then at that time his neighbour Harpreet Kaur wife of Sukhdev Singh, R/o Mari Udoki came to his house and started saying bad things that the mirror of her house has been broken by Sparrow and complainant' mother Renu Bala said that your lead is broken they will fixed it, but Harpreet Kaur did not agree and started saying bad words to his mother and fell down and started beating. Later on the complainant saved his mother and Harpreet Kaur was thrown out of his house by complainant. Thereafter Harpreet Kaur started abusing and calling his son Akashdeep Singh @ Jassi (respondent No. 2) in a loud voice, then Akashdeep Singh @ Jassi came on the spot with double barrellled rifle. Then Harpreet Kaur raised lalkaras. Then complainant closed his shop in fear and complainant and his mother started climbing on the roof of his house. Akashdeep Singh @ Jassi also climbed on the roof with his respective weapon and fired two shots with intention to kill him, he was hiding behind a water tank and saved himself. Then he raised cry of *mar dita mar dita*. The accused persons fled away from spot along with their respective weapons. Complainant prayed for taking action against the accused. After inquiry FIR was lodged. Investigation was brought into motion. Statements of witnesses were recorded. Accused/ Juvenile in conflict with law was arrested and after completion of investigation challan was prepared and presented in the court.

3. Having heard the learned counsel for the parties and after perusing

below has opined that perusal of case file shows that Investigating Officer Inspector Harpreet Singh was partly examined-in-chief and his further examination-in-chief was deferred on 02.12.2021. Thereafter, he had not come present in the Court to support the prosecution case in spite of issuance of summons/non-bailable warrants. So, when the investigation of the case is not proved, there is no relevancy of examination-in-chief of I O Harpreet Singh because he was not cross examined. Thereafter, prosecution was given number of opportunities for this purpose but to no avail and prosecution evidence was closed by order. Thereafter, learned Court below concluded that prosecution has failed to prove the allegations against the respondent No. 2-juvenile, from any angle. Thus, the trial Court was bound to acquit the juvenile-respondent No. 2 as the case of the prosecution was not proved.

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

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 revision petition and hence, the same is hereby dismissed.
6. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)

JUDGE

28.01.2025

Ajay Goswami

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