

**CRR-1552-2016 (O&M)****1****254****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-1552-2016 (O&M)****Date of Decision: 27.01.2025****NIRMAIL SINGH****...Petitioner****Versus****STATE OF PUNJAB AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Rohit Singh, Advocate for Mr. S.S.Dinarpur, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Mr. S.S. Kamboj, Advocate
for respondent No. 2.

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

1. This revision petition has been filed against the judgment dated 21.01.2016 passed by learned Additional Sessions Judge, Mohali vide which the judgment of conviction dated 29.01.2014 passed by learned Judicial Magistrate Ist Class, Mohali has been set aside and respondent No. 2 has been acquitted of the charges levelled against him in case bearing FIR No. 10 dated 07.01.2018 registered under Sections 417, 419, 420, 465, 467, 468, 471, 474 and 120-B of Indian Penal Code at Police Station Phase 1, Mohali.

2. The brief facts of the prosecution case are that complainant has filed a written complaint to SSP, Mohali to the effect that he is a resident of Alipur Wazir Sahib, Tehsil & Distt. Patiala. His cousin brother Bhajjan Singh son of Gurdial Singh had prepared a forged Will and got transferred the joint land measuring 2 Kanals 12 Marla situated in village Mauli Baidwan, Tehsil & District SAS Nagar, Mohali in his name. The complainant has further stated that they are five brothers and one sister. The said land is in the name of his

grandfather Bishan Singh. Therefore, they had an equal share in the said land as his father Gurdial Singh had died. Bhajan Singh had sold the said land and he had kept the entire amount with him and had not given them their share. They had also got a land near village Mauli Baidwan and Bhajan Singh on the basis of the forged Will claimed his right on the said land. On the basis of said complaint, the present case under sections 417/419/420/465/467/468/471/474/120B IPC was registered and investigation was pressed into service. During the investigation, the accused were arrested. Rough site plan of the place of occurrence was prepared. The case property was taken into police possession. The statements of witnesses were also recorded. The personal search of the accused were conducted. All the formalities of investigation were completed. The challan was prepared and was presented before the court against the accused.

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 lower Appellate Court has opined that in the complaint moved by the complainant to S.P.(H) Mohali, details of forgery were not divulged. On the other hand, as per Bhajan Singh not only the said Will executed by Bishan Singh in his favour was genuine but upon its basis a mutation No. 4665 was also entered in the revenue record especially when all his brothers and sister including complainant give their no objection. *Halqa Patwari* Harbans Singh proved the mutation but in his cross-examination he demolished the entire case of the prosecution by agreeing that on the basis of the Will dated 20.05.1971, property of Bishan Singh was mutated in the name of Bhajan Singh especially when all his brothers and sisters appeared before Tehsildar Mohali and made statements. He also proved copy of



complainant), Sardool Singh, Bahadur Singh sons of Gurdial Singh and a similar statement was suffered by their sister Jarnail Kaur daughter of Gurdial Singh. In order to prove allegations of forgery of above said Will besides examining Nirmail Singh, prosecution has also examined all his other brothers Sardool Singh, Bahadur Singh, Jarnail Singh as well as sister Jarnail Kaur. All the above said witnesses were confronted with their previous statements to which some of them denied and some of them tried to explain away factum of making of statements mentioned above. Learned lower Appellate Court further found that while convicting the accused, learned trial Court drew heavily upon FSL report. The author of that report never appeared before the learned Magistrate and as such his above said report had never been testified on the touch stone of cross-examination. Thus, keeping in view the aforementioned facts, learned lower Appellate court rightly acquitted the accused-respondent No. 2 in the appeal filed against the judgment of conviction passed by the trial Court.

5. 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**

06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

6. 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 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.

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

(HARPREET SINGH BRAR)
JUDGE

27.01.2025
Ajay Goswami

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