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

**CRR-3527-2015 (O&M)
Date of decision: 03.07.2025**

Sarva Haryana Gramin Bank

...Petitioner

Versus

Amit Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinay Kumar Arya, Advocate
for Mr. Bhushan Bhatia, Advocate
for the petitioner.

Mr. Pardeep Kumar Raparia, Advocate
for respondent No.1.

Mr. Harkesh Kumar, AAG, Haryana.

Harpreet Singh Brar, J. (Oral)

1. The present revision petition is preferred against order dated 02.06.2015 passed by learned Additional Sessions Judge, Bhiwani whereby the judgment of acquittal passed by learned Judicial Magistrate Ist Class, Charkhi Dadri, in the case stemming from FIR No.372 dated 04.10.2010 under Sections 457 and 380 of the IPC at Police Station Charkhi Dadri, was upheld.

2. Briefly, the facts, as alleged, are that on 01.10.2010, the complainant- Umrao Singh, Manager of the petitioner-bank checked the cash available in the bank and handed over his key to the chest to respondent No.1, a cashier, to lock the chest. Respondent No.1, being the cashier, also had a separate key to the chest. After locking the safe with both the keys, respondent No.1 returned the complainant's key. The bank remained closed on 02.10.2010 and 03.10.2010. Thereafter, on 04.10.2010, the security guard informed the



complainant that the lockers have been broken. On checking, it was found that the cash kept in the chest was stolen.

3. Learned counsel for the petitioner *inter alia* contends that respondent No.1 had undergone a polygraph test, the result of which highlights his guilt. In fact, he was also found guilty in the departmental inquiry held in this regard. Further, the forensic report clarifies that the safe was open using an original key and the last key with which the safe can be open was in custody of respondent No.1. There are two sets of keys, one of which was lying in the branch at Charkhi Dadri in a sealed package. It is a matter of record that the cashier key, with which the safe can be opened, was in custody of respondent No.1. Moreover, the duplicate keys given to Dalbir Singh, security guard, were of the main gate and not the safe. As such, the learned Courts below have fallen into grave error in acquitting respondent No.1.

4. *Per contra*, learned counsel for respondent No.1 states that respondent No.1 has already been acquitted by the learned trial Court as well as the learned lower Appellate Court after due analysis of all material available on record. He further contends that the complainant-Manager has falsely implicated respondent No.1, who had only joined the petitioner-bank 3-4 months prior to the incident, in the present case. Moreover, the currency notes recovered have not been compared with those that were found to be missing from the bank.

5. Having heard learned counsel for the parties and perused the record with their able assistance, it transpires that the complaint is unclear as to when did the alleged incident occur. The only eye witness to the same-PW7-Surender has not supported the case of the prosecution. There are also



material discrepancies with respect to the number of copies of the safe keys. Curiously, CCTV cameras have been installed but the footage with respect to this particular incident is missing and no explanation for the same is forthcoming. Moreover, the Manager is duty bound to himself lock and check the safe along with the cashier, however, the complainant-Manager, has categorically stated that he just gave his key to respondent No.1.

6. A polygraph test was also conducted on respondent No.1, however, as far as the question about knowledge of respondent No.1 qua theft of Rs.21,00,000/- from the safe was concerned, the report remained inconclusive. As far as the departmental inquiry is concerned, the same would not have any bearing on establishment of guilt of the respondent No.1. Additionally, the cash was allegedly recovered from Jhajjar, however, there is no evidence that investigation was conducted there. In spite of availability of independent witnesses, they were not joined in the recovery.

7. 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. (See: ***H.D. Sundara and others vs. State of Karnataka (2023) 9 SCC 581***, ***Kali Ram vs. State of H.P. (1973) 2 SCC 808*** and ***Chandrappa and others vs. 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.



8. In view of the discussion above, this Court does not find any illegality in the assessment of the facts and the law by the learned Courts below. Learned counsel for the petitioner has been unable to indicate any perversity in the impugned judgment that would warrant interference by this Court. Accordingly, the present petition is dismissed.

9. Pending miscellaneous applications, if any, shall also stand disposed of.

03.07.2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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