

**CRR-2544-2016 (O&M)****1****249****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-2544-2016 (O&M)****Date of Decision: 26.03.2025****RAM NIWAS****...Petitioner****Versus****GIRDHARI LAL AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Nirmal Rani, Advocate for
Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Amandeep Singh, Advocate
for respondent No. 1.

Mr. Vikas Bhardwaj, AAG Haryana.

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

1. This revision petition has been filed against the judgment of acquittal dated 31.05.2016 passed by learned Additional Sessions Judge, Rewari vide which the judgment of conviction and order on quantum of sentence dated 18.02.2016/20.02.2016 passed by learned Judicial Magistrate Ist Class, Rewari have been reversed/set aside.

2. Relevant facts of the case are that on 02.10.2007 complainant Ram Niwas came to the police station and presented his written complaint/application conveying that he is having one mule through which he is earning his livelihood. On 01.10.2007 he had gone to Rewari to take medicines as he was having bed health. In his absence his mule went out of house. His wife and his brother's wife went out in search of mule. They saw that mule was lying in agriculture fields of Kishan Pandit and accused Girdhari was inflicting injuries upon mule. It was at about 05:30 p.m. When complainant came back from Rewari, his wife



informed him about the incident. Complainant then took his mule for treatment and reported the matter to the police.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that place of occurrence is at bus stand, Bolni, where number of shops are located. Further PW-3 has also admitted in his cross-examination that she raised hue and cry upon which many persons from neighbouring areas gathered there, but she has shown her inability to tell the name of even a single person. Further, there are material contradictions between the ocular evidence and the medical evidence of the prosecution. PWs have gone improving their previous stand and have made self-contradictory statements. No independent witness has been named or joined in the investigation. The witnesses have given a completely distorted version. Eye-witnesses are seemed to be interested in disclosing the incorrect facts and independent witnesses have not been joined despite their availability as the occurrence has allegedly taken place just outside the bus stand. If the mule was actually butchered in the manner alleged by the prosecution, then the animal itself must have cried loudly and it must have attracted the nearby shop-keepers, but there is not a single whisper to this effect. Moreover, the Investigating Officer is not examined, site-plan has not been proved and no private witness has been examined.

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 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.

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.

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

(HARPREET SINGH BRAR)

JUDGE

26.03.2025

Ajay Goswami

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