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

CRR-4143-2015

Date of decision: 25.02.2025

Reshmi Devi

....Petitioner

Versus

Dharampal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sat Narain Yadav, Advocate
for the petitioner.

Ms. Jyoti Kaur, Advocate for
Mr. R.D. Yadav, Advocate
for respondent No.1.

Mr. S.K. Panwar, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been filed against the judgment dated 10.06.2015 passed by learned Additional Sessions Judge, Rewari vide which the judgment of acquittal dated 28.02.2014 passed by learned Judicial Magistrate 1st Class, Rewari, has been upheld.

2. Brief facts of the case are that on the intervening night of 26/27.07.2007, when the complainant/petitioner was sleeping in her plot for taking care of her buffalo at around 12:30 during midnight, accused/respondent No.1 under the influence of liquor jumped over into her plot and when she raised noise, he gave her slap and extended threats to kill her. The investigation of the case was initiated.

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 trial

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Court opined that the complainant/petitioner examined herself as PW1 who supported the case of the prosecution in her examination-in-chief. In her cross-examination, she stated that the complaint was written by police official and when she came along with her son, namely, Sunil to the police for lodging the report. She further stated that the complaint was given by her on 30.07.2007 and perusal of the complaint clearly shows that the complaint was given on 28.07.2007. Further, the Investigating Officer-PW2 in his cross-examination stated that the written complaint was presented to him at Saban Chowk Bawal and the same was not written by the police official and the complainant/petitioner-PW1 came with her brother-in-law, namely, Harkesh. Dinesh Kumar, who appeared as PW3 deposed in his examination-in-chief that he and his uncle went to his mother i.e. the complainant/petitioner but on the other hand, PW1 stated that she went to her son and her brother-in-law to tell them about the incident. Furthermore, it is evident that there are several contradictions in the testimonies of PW1, PW2, and PW3 raising doubts about the veracity of their statements. Thus, learned trial Court has rightly acquitted the accused person/respondent No.1 as the prosecution has failed to prove its case beyond the shadow of reasonable doubt.

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

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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 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

25.02.2025*Neha*

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