



**263-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 22.01.2025

1. CRR-351-2016

RAM KISHAN MUDGIL

...PETITIONER

V/S

JAIBIR AND OTHERS

...RESPONDENTS

2.

CRR-2-2016

RAM KISHAN MUDGIL

...PETITIONER

V/S

AJAY KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishavjeet Gill, Advocate for
Mr. Tanvir S. Grewal, Advocate
for the petitioner.

Mr. Aditya Pal Singla, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This common order of mine shall dispose of both the above mentioned revision petitions as both of them are arising out of the same incident. For the sake of brevity, facts are borrowed from **CRR-351-2016** titled as '**Ram Kishan Mudgil vs. Jaibir and others**'.

2. The present revision petition has been filed against the impugned judgment dated 20.07.2011 passed by learned Judicial Magistrate Ist Class, Rewari as well as impugned judgment dated 07.11.2015 passed by learned Additional Sessions Judge, Rewari, whereby the private respondents have been acquitted by both the Courts below.



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3. The brief facts of the present case are that complainant is a resident of village Mundi, Tehsil and District Rewari and practices as an Advocate in the District Court, Rewari. He purchased a house in dilapidated condition vide registered sale deed dated 14.05.2001 and got the same repaired and shifted his luggage and started residing therein. On 05.11.2001 at around 8.30 A.M. while the complainant was returning from his fields, he saw the lock of the said house broken and the accused had entered therein. They were throwing the luggage and were removing certain luggage. When the complainant asked them to refrain from removing the luggage, they threatened to kill him. He called his uncle Bhoop Singh and his brother Satya Narain. For 3-4 days the talks of compromise were going on. On failure of the talks of compromise the complainant gave a complaint at P.S. Khol on 09.11.2001. No proceedings being initiated by the police and a complaint was given to S.P. Rewari on 22.11.2001. On the directions of the S.P. Rewari, the District Welfare Inspector submitted a report recommending lodging of FIR under Sections 452, 427 and 506 of IPC. On 02.01.2002 the FIR was registered. However, the police did not take appropriate steps to arrest the accused and to pursue the matter. Therefore, the present complaint was filed.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that no prosecution witness from the village has been examined by the prosecution to state that the complainant and his brothers were residing or in possession of the disputed land, at the time of alleged incident. Further, the averments in the sale deed and agreement to sell appear to be contradictory as in the sale deed, the possession of the disputed land was handed over on 14.05.2001, whereas as per the agreement to sell, the possession was handed over on 03.01.2001. As such,



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the exclusive possession of the petitioner on the land in dispute remains unproved. Furthermore, the identity of the land in dispute also remains ambiguous. As such, only vague allegations have been levelled against the private respondents and the prosecution has failed to prove its case beyond the reasonable shadow of doubt.

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. (*See H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; 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 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.

6. In view of the discussion above, 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 any interference. Accordingly, both the revision petitions are dismissed.

January 22, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |