

**CRR-4412-2016 (O&M)****1****252****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-4412-2016 (O&M)****Date of Decision: 20.03.2025****PHOOLVATI DEVI****...Petitioner****Versus****VINOD KUMAR AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. S.K. Tripathi, Advocate
for the petitioner.

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

1. This revision petition has been filed against the judgment dated 12.09.2016 passed by learned Additional Sessions Judge, Rewari vide which the judgment of conviction and order on quantum of sentence dated 14.11.2014 passed by learned Judicial Magistrate Ist Class, Kosli has been reversed and private respondents have been acquitted of the charges levelled against them.

2. The brief facts of the prosecution case are that on 02.03.2013 at about 3.00 p.m., Vinod-respondent No. 1, who was driving a private School bus, had intentionally killed the domesticated cock by crushing it under the tyres of the bus. On being asked by the brother-in-law of complainant Pardeep, as to why he crushed their cock, respondent No. 1 replied that not only he had crushed the cock but also threatened to kill him as well. At the same time, two brothers of Vinod Kumar namely Pawan Kumar and Umed Singh came there and gave beatings to the complainant and her brother-in-law. In addition to that, they threatened to put their houses on fire. Thereafter, two more persons namely Mintu son of Lala Ram and Bhupesh-respondent No. 2, came there and gave beatings to the complainant. It was further alleged that before leaving, they



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threatened to put their houses on fire and thereafter they would kill all of them.

It was further alleged that a complaint was filed before the police on 02.03.2013 in this regard however, no action was taken. Subsequently, a complaint was moved by Pardeep on 03.03.2013, which was registered in DDR as Rapat no.7 at police post, Nahar. On the basis of this complaint, FIR No. 45 was registered on 16.03.2013 in police station, Kosli under sections 279, 336 and 429 IPC only against accused Vinod.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that PW-5 Dr. Suresh Kumar Kataria in his cross-examination proved that there was no visible mark of injury on the person of Sukhdev. The complainant has not put forth any satisfactory explanation for her and her husband's delayed medical examination. Since, there was enmity between the parties, therefore, it will be highly unsafe to place implicit reliance on the statements of the complainant and her witnesses, who were related as well as interested witnesses. Once, participation and presence of Pawan and Umed was suspected, thus the participation of remaining accused persons also has to be doubted. Therefore, sufficient doubt had existed regarding the occurrence in question. Moreover, complainant filed a belated complaint on 10.04.2013, after a lapse of more than one month from the alleged occurrence, which was allegedly took place on 02.03.2013. Pardeep Kumar PW-3 deposed about injury on the head of Sukhdev and injury on the chest of complainant Phoolwati but their MLRs do not disclose the presence of said injuries.

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, 2023 (9) SCC 581; 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, 2024(2) PLR 43** 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 Courts 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

20.03.2025

Ajay Goswami

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