

CRR-2195-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2195-2017 (O&M)

Date of Decision: 27.01.2025

SANTOSH CHAUDHARY

...Petitioner

Versus

PARAS CHAUDHARY

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Chaman Deep, Advocate for
Mr. Ivneet Singh Pabla, Advocate for the petitioner.

Harpreet Singh Brar, J. (Oral)

1. The present revision petition has been filed against the judgment dated 20.08.2016 passed by learned Principal Magistrate Juvenile Justice Board, Panchkula vide which the respondent has been acquitted in the complaint case filed under Sections 191, 192, 193, 420, 467, 468, 471 and 120-B of Indian Penal Code.

2. Brief facts of the present complaint are that complainant is daughter of Kanhiya Lal (accused No.1 in the main complaint), who inherited property from his ancestors at village Devi Nagar, Tehsil and District Panchkula, Village Tagra, Tehsil Kalka, District Panchkula, village Laha, Tehsil Naraingarh, District Ambala and village Gadauli, Tehsil Naraingarh, District Ambala, and House No.99, Sector-4, Panchkula. Complainant filed a civil suit for declaration and permanent injunction against him claiming that they have 1/5th share in the ancestral property. The said civil suit was pending on the date of filing of the complaint. Thereafter, State of Haryana acquired the land at village Devi Nagar, Tehsil and district Panchkula. Accused No.1(Kanhiya Lal) applied for enhancement of compensation under section 181 of the Land Acquisition Act.

accused No.1 (Kanhiya Lal), and he was directed to furnish a security bond, in execution No.489 of LAC case No.286/01. He duly furnished the security bond before the court of learned Additional District Judge, Panchkula and secured two pieces of land measuring 59 Kanals 15 Marlas and 90 Kanals 12 Marlas at village Laha, Tehsil Naraingarh, District Ambala. He also furnished an affidavit along with the security bond in the court of learned Additional District Judge to the effect that he will not dispose of the land situated at village Laha, Tehsil Naraingarh, District Ambala, till the decision of RFA pending adjudication. After giving the said land as security, accused No.1 (Kenhiya Lal) released payment from the court of learned Additional District Judge, however, he colluded with the respondent-juvenile and co-accused, and with malafide intention, gifted the land measuring 178 Kanals 09 Marias situated in village Laha, Tehsil Naraingarh, District Ambala, to accused No.2 (Shubham Chaudhary) and respondent-juvenile law vide registered gift deed No.3555 dated 03.02.2009. Accused No.1 (Kanhiya Lal) had no right to disposed of the said land. Gift deed was presented by accused No.1, 2, 4 and 5 and respondent before accused No.6 i.e. Mukesh Kaushik, Sub Registrar, Naraingarh, for its registration; he had knowledge regarding the pledge of the land in court, because its entry was incorporated with red ink in the jamabandi, still he registered the gift deed. In this manner, accused no. 1 cheated and played fraud with the court. Accused No.4 & 5 were witnesses to impugned gift deed. A complaint was made to Superintendent of Police, Panchkula, on 11.02.2009, but no action was taken. Hence, the complaint.

3. Having heard the learned counsel for the petitioner and after perusing the record of the case with his able assistance, it transpires that learned

Court below has opined that it has been alleged against the respondent that he

had cheated the complainant and got executed gift deed No. 3555 dated 03.09.2009 in order to divest the complainant of her rights and also committed forgery by way of preparing said gift deed and used the same. In this regard, complainant had examined herself and supported her case. CW-2 Dilbag Singh had brought on record the jamabandi for the year 2004-2005, in which, there was an entry for security of the property given into the Court. Thus, learned Court below concluded that there was mere signature of respondent on the gift deed executed by his father in his favour and it was not found sufficient to prove the fact that it was in order to cheat the complainant. It was not the case of the complainant that property was belonging to her and she further contended that security of the property of gift deed was given before the Court, but thereafter, gift deed was executed regarding the same property and the respondent was not a party for giving security before the Court, therefore, learned Court below rightly found that respondent could not be linked with the said allegations and rightly acquitted him of the charges levelled against him.

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)**

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 trial Court 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

27.01.2025
Ajay Goswami

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