

**CRR-4545-2017 (O&M)****1****274****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-4545-2017 (O&M)****Date of Decision: 21.01.2025****NIRMALA****...Petitioner****Versus****STATE OF HARYANA AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Vishal Punia, Adocate and
Mr. Sajjan Singh, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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

1. The present revision petition is preferred against the judgment dated 09.10.2017 passed by learned Additional Sessions Judge, Rohtak whereby the judgment of acquittal dated 03.10.2016 passed by learned Judicial Magistrate Ist Class, Rohtak in the case bearing FIR No. 141 dated 04.04.2012 under Sections 323, 325 and 34 of Indian Penal Code registered at Police Station Sampla has been upheld.

2. Brief facts of the case are that complainant Nirmala submitted an application that on 17.02.2012 she was working at a construction site. Bheema, Sunita and Prem came at the spot and entered in their house. They started giving injuries with legs and fist blows. Sunita also snatched her nose pin, earning and chain. They all abused the complainant and gave her threat to life. On the basis of aforesaid allegations, FIR (supra) was registered.

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 Court below did not find it to be a fit case for settling the accused with the criminal



The star witnesses did not support the case of the prosecution when they appeared in the witness box. Learned Court below has also observed that no reason was explained as to why the complainant was referred to three hospitals i.e. Civil Hospital, Rothak, CHC Kaloi along with PGIMS and there was no reason shown which could make her case to be so serious that she needed to be referred to three different hospitals. Further, the police agency, without any plausible explanation failed to join any independent witness either at the time of recording of alleged disclosure statement of the accused or at the time of alleged recovery from him, in spite of easy availability, which makes the prosecution case doubtful. Moreover, it had also come on record that complainant and accused persons had previous enmity and they did not have cordial relations and were throwing unnecessary allegations on each other as a matter of habit between them and the actual dispute arose on the house which was partitioned and many other contradictions were also found in the prosecution story.

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 passed in **State of**

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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 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

21.01.2025*Ajay Goswami*

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>