



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

CRR-644-2017

Date of decision: 09.01.2025

LALITA DEVI

...PETITIONER

V/S

RAJ KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Johan Kumar, Advocate and
Mr. Akshit Mehta, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed against the impugned judgment dated 16.02.2016 passed by learned Judicial Magistrate Ist Class, Hathin as well as impugned judgment dated 17.10.2016 passed by learned Additional Sessions Judge, Palwal, whereby the respondents have been acquitted by both the Courts below.

2. Briefly stated the case set up by the prosecution is that a complaint was made by the complainant Lalita Devi who submitted that the accused Raj Kumar (respondent No.1 herein) executed a registered agreement to sell bearing vasika no.854 dated 5.6.2011 in favour of Mahender S/o Tekchand, wherein the vendor agreed to execute a sale deed of 6 kanal 0 marla land in favour of any nominee that the vendee might nominate. Total sale consideration was decided as Rs 22 lakhs and Rs 7,50,000/- was paid in front of the sub-registrar at the time of execution of such agreement. Later, as per his requirement, the vendor took Rs 8 lakhs in installments and gave receipts. In lieu of such agreement to sell, a sale deed bearing no.5944 dated 14.10.2011



was executed in favour of the complainant for 5 kanal 0 marla. She claims that in such sale deed, the executor and his family members/witnesses assured her that the land is devoid of any charges or encumbrances and that it is absolutely owned by the executor. She claims that she later got to know that the vendor Raj Kumar in collusion with the other accused and with a motive of playing fraud upon the complainant, procured a forged and fabricated agreement to sell dated 25.6.2010 in respect of such 6 kanal of land in favour of accused Narender (respondent No.3 herein). It is shown that on 25.6.2011 the date of execution of sale deed in lieu of such agreement to sell was extended to 23.5.2012. The complainant therefore claims that the accused persons in conspiracy with each other and with a dishonest intention fabricated a forged agreement to sell so as to cause wrongful loss to her. 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 there is nothing on record to prove that last date for execution of agreement to sell was so extended from 25.06.2010 to 26.06.2011 and the agreement placed on record indicates that last date of execution was 26.06.2011 itself. Since the prosecution has failed to prove the last date of execution of agreement to sell being 25.06.2010, it cannot be concluded that the accused/vendor Raj Kumar concealed the fact of existence of an earlier executed agreement to sell in favour of accused Narender as the same was not subsisting on 14.10.2011 i.e. when the sale deed was executed as the agreement dated 25.06.2010 itself states that if the sale deed is not executed on or before 26.06.2011, the same shall stand cancelled. As such, only vague allegations have been levelled against the respondents and the prosecution has failed to prove its case beyond the reasonable shadow of 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. (*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.

5. 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, the present revision petition is dismissed.

January 09, 2025
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(HARPREET SINGH BRAR)
JUDGE

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