

**CRR-810-2017 (O&M)****1****253****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-810-2017 (O&M)****Date of Decision: 20.03.2025****M/S RAI AGRO INDUSTRIES LIMITED****...Petitioner****Versus****STATE OF PUNJAB AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sahil Matharoo, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

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

1. This revision petition has been filed against the judgment dated 20.10.2016 passed by learned Additional Sessions Judge, Sangrur vide which the judgment of acquittal dated 19.12.2013 passed by learned Additional Chief Judicial Magistrate, Sangrur has been upheld.

2. Briefly stated the FIR in the present case was registered on the basis of complaint made by Tarlochan Singh Rai, Chairman of Punjab Maize Private Limited Company stating that the Punjab Maize Products Private Limited is situated at Uppli Road, Sangrur. Deepinder Singh-respondent No. 2 was appointed as Manager (Marketing) of the said company with effect from 01.09.1990 vide letter no.PH/PER/599/91 dated 06.09.1991. It has been alleged that Deepinder Singh has misappropriated the amount of company in lacs and a criminal case no.65 dated 05.06.1992, under Sections 406, 408 of Indian Penal Code was registered against him in Police Station Kotwali, Sangrur. Thereafter, he absconded from the company and sent resignation, which was subsequently accepted. Later, respondent No. 2 forged the letter (supra) dated 06.09.1991 by adding that "To supplement sales and increase overall production, Deepinder Singh's commission enhanced to 2% with retrospective effect from his date of

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joining in the company to get 2% on all products including sheller's total sales of the company. His protest resignation regarding excise matters rejected.” The company has also taken the expert opinion of Sh. Dewan K.S.Puri, who opined that forged lines were added later on. Respondent No. 2 thereafter filed a civil case for declaration on the basis of forged document. The complainant has requested numerous times to register a case against respondent No. 2 under Sections 467, 471, 474 IPC, but no action has been taken against him for forging the document. It was further alleged that respondent No. 2 was employed as Sales Manager for Amritsar Depot and was subsequently promoted to the position of General Manager with effect from 06.09.1991 and was vested with the job to collect debts and receive remittance from Amritsar and to deposit the same in the bank account of the company. The complainant Tarlochan Singh Rai went abroad and during that period respondent no. 2 pocketed various amounts, from the sale proceeds of goods sold in Amritsar, the details whereof have been given in Ex.PA. However, the amounts collected from one Ashwani Kumar alias Jhujj were not deposited in the account of the company. Respondent No. 2 also employed Iqbal Singh-respondent No. 3 at the Sale Depot, Amritsar of the company. Respondent no. 3 was vested with the duty to deposit the amount collected by him, in the bank account of the company or remit the same at the head office. During his tenure, respondent No. 3 collected amount of the company from the customers, but did not deposit the amount in the bank account of the company and embezzled the same. In the year 1992, when the complainant came to India, he found that private respondents have misappropriated the entire working capital and on confrontation, respondent No. 2 put off the matter. Thereafter, inquiry was conducted against respondent No. 2 and it was found that the he had committed fraud. The complainant reported the



matter to the S.S.P on the basis of which F.I.R no. 65/92 under Section 408 IPC was registered. Amount of ₹4,80,000/- was recovered from the possession of respondent No. 2 and the same are deposited in the treasury. Thereafter, the complainant checked the account of Amritsar Depot from which he came to know that all private respondents in connivance with each other committed fraud and misappropriated the amount to the tune of ₹13 lacs approximately of the company.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that petitioner failed to prove the allegations that private respondents misappropriated the amount of goods sold to different parties through Amritsar Depot. It has also come on record that record of Amritsar Depot was neither taken into possession by the Investigating Agency nor any endeavour was made to produce and prove the same during the trial. Mere ocular versions of PW-5 Deepak Walia, PW-2 Megh Raj and PW-1 Barjinder Pal Singh are not sufficient to fasten the liability on private respondents on the basis of the receipts and gate passes. Moreover, complainant, Tarlochan Singh Rai, failed to step into the witness box to corroborate. PW-5 Deepak Walia, conceded in his cross-examination that complainant prepared the documents from the account books, ledger and other record. But in the absence of complainant in the witness box and non-proving of the said account books, ledger etc. the allegation regarding misappropriation of amounts alleged in this case remained unproved. The learned counsel for the petitioner failed to prove the iota whether the goods supplied from the premises of the Company were received there or not. Further, the learned counsel failed to co-relate the receipts with the account books to establish the alleged misappropriation in the hands of private respondents.

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 (2007) 4 SCC 415**) 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 Court 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