

**248 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

**CRR-3010-2018 (O&M)
Date of Decision: 05.03.2025**

STATE OF HARYANA

...Petitioner

V/S

RAM SARAN AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ramesh Kumar Ambavta, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM-31418-2018

This is an application under Section 5 of the Limitation Act read with Section 482 of Cr.P.C. for condonation of delay of 100 days in filing the instant revision petition.

For the reasons mentioned in the application, same is allowed and delay of 100 days in filing the revision petition is condoned.

CRR-3010-2018

1. The present revision petition is preferred against the judgment of acquittal dated 20.01.2018 passed by learned Additional Sessions Judge, Karnal vide which the judgment of conviction and order on quantum of sentence dated 12.06.2014/13.06.2014 passed by learned Additional Chief Judicial Magistrate, Karnal convicting the respondents under Sections 420, 467, 468 and 471 of Indian Penal Code and awarding them simple imprisonment for three years and fine of Rs. 12,000/- each with default mechanism, have been reversed.

2. Brief facts of the prosecution case are that on 17.11.2006, a written application dated 30.10.2006 made by Satpal Singh Patwari Halqa,

Bal Rangran, Sub Tehsil Ballah, District, Karnal to the Sub Divisional

Magistrate, Assandh was received in the Police Station, inter-alia, alleging therein that respondent No. 1-Ram Saran has prepared a forged Jamabandi for the year 1999-2000 and on 04.08.2006 after getting issued stamps of Rs. 21,000/-, he was getting a mortgage deed registered in favour of Bijender Singh and Kuldeep Singh. When forgery came to the notice of the office of Sub Registrar, Ballah, the mortgage deed was not registered. It was requested to take legal action against the accused/respondent No. 1. Finding the case for the commission of offences under sections 420, 467, 468, 471 of IPC from the contents of the application, the FIR was registered and on registration of the FIR, the case was investigated upon by PSI Tarun Kumar. During investigation, accused Ram Saran was arrested on 26.06.2007. On interrogation, he suffered his disclosure statement regarding the commission of the offences. Accused-respondent No. 2-Ajay Kumar was arrested on 01.09.2007. Statement of witnesses under Section 161 Cr.PC recorded. On completion of investigation of this case, the final report u/s 173 Cr.P.C. was put up against the accused.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that prosecution has failed to get the said forged document proved through the prosecution witnesses nor the said document has been exhibited in evidence and therefore, the prosecution has withheld the best evidence for the reasons known to it. This was the material document of the prosecution but when this document has not been got proved and even exhibited in evidence, this document cannot be read in evidence and it being so, it cannot be concluded that this document has been forged by the respondents and therefore, the

respondents could not be convicted on the basis of an unproved and un-exhibited document. Further, it has come on record that jamabandi for the year 1999-2000 was forged by respondent No. 2-Ajay Kumar @ Ajay Singh in favour of respondent No. 1-Ram Saran. Though, prosecution has not produced original jamabandi for the year 1999-2000 but PW-2 has specifically deposed that vide recovery memo Ex. PW-2/B, jamabandi for the year 1999-2000 along with agreement to sell were taken into police custody. Moreover, the original of alleged forged document i.e. jamabandi for the year 1999-2000 has not been produced on the file by the prosecution to prove that the said document has been forged. Further, Kuldeep Singh and Bijender, who are stated to have been cheated by the accused-respondents, have not supported the prosecution case, when they stepped into witness box and they have categorically stated that the accused persons neither cheated them nor they produced any forged jamabandi.

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 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 State counsel has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate Court which warrants interference by this Court. As such, there is no merit in the present petition and hence, the same is dismissed.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.03.2025
Ajay Goswami

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