



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

CRR-2022-2023

Date of decision: 11.02.2025

MONA

...PETITIONER

V/S

PREETAM @ HAKKAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Robin Lohan, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present Revision Petition has been preferred for setting aside the impugned judgment dated 04.05.2023 passed by learned District and Sessions Judge, Hisar whereby, the judgment dated 16.02.2018 passed by learned Sub Divisional Judicial Magistrate, Hansi, acquitting respondent Nos.1 to 3 has been upheld.

2. Briefly, the facts are that on 18.03.2014, the respondents-accused abused the father of the petitioner-complainant outside her house. On witnessing the same, the sister of the petitioner tried to stop them but was attacked by the respondents and was allegedly hit by respondent no.1 on her head with an iron rod. Further, respondent no.2 hit her with brick on her leg and respondent no.3 hit her shoulder with iron rod. She was rescued by the petitioner and was taken to Sapra Hospital, Hisar, where she was admitted. On assessing the facts and evidence on record, the learned Sub Divisional Judicial Magistrate, Hansi concluded that the petitioner has failed to prove the guilt of the respondents beyond reasonable doubt. Accordingly, they were acquitted.



Aggrieved by the same, the petitioner, filed an appeal before the learned Sessions Judge, Hisar, which was also dismissed.

3. Learned counsel for the petitioner submits that the learned Sessions Judge, Hisar erred in upholding the judgment of the learned Sub Divisional Judicial Magistrate, Hansi. Learned counsel stated that the petitioner has been successful in fully proving the guilt of the respondents-accused beyond reasonable doubt and that there is cogent and convincing evidence on record against the respondents to prove their guilt. Learned counsel further placed reliance upon the statements of PW-1 and PW-3 for proving the guilt of the respondents-accused and submitted that the Courts below have wrongly discarded these statements, despite being fully corroborated. It is further contended that the Courts below failed to consider the fact that the injured party was advised complete bed rest for one month and have passed the judgment in a mechanical manner.

4. Having heard the learned counsel for the parties and going through the judgment of the learned lower Courts and the evidence on record, it is observed that the medical evidence present on record is not corroborated with the testimony of PW1 as the MLR clearly shows that no external injury mark was present on the body of the injured. It is impossible to believe that after being hit by an iron rod and brick, the injured got no external injury marks on her body. Further, as per the version of the complainant, respondents-accused trespassed in her house after breaking one gate, however, PW-3 stated that both the gates were broken by the respondents-accused and the complainant i.e. PW-1 deposed that neighbours were gathered on their roofs but her sister i.e. PW-3 stated that neighbours came in their house. As such, there are material contradictions in the testimonies of the prosecution



witnesses. Furthermore, SI Shamsheer Singh while deposing as PW-7, in his cross-examination has failed to tell about the houses of neighbours. Moreover, the depositions made by the injured and the complainant are conflicting and do not corroborate, therefore pose doubt on the story of prosecution. The examination in chief of PW4 Dr. Kamid Monga further substantiates the same. As such, only vague allegations have been levelled against the respondents-accused and the prosecution has failed to prove its case beyond the shadow of reasonable doubt.

5. 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 in *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.

6. The Hon'ble Supreme Court of India in the matter of *Surajpal Singh and other versus State, AIR 1952 Supreme Court 52*, has spelt out the powers of the High Court and has observed as follows:-

"It is well-established that in an appeal under [section 417](#) of the



Criminal Procedure Code, the High Court has full power to review the evidence upon which the order of acquittal was founded, but it is equally well-settled that the presumption of innocence of the accused is further rein- forced by his acquittal by the trial court, and the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons. On the whole, we are inclined to hold that the Sessions Judge had taken a reasonable view of the facts of the case, and in our opinion there were no good reasons for reversing that view. The assessors with whose aid the trial was held, were unanimously of the opinion that the accused were not guilty, and though 25 persons were placed on trial on identical evidence, the State Government preferred an appeal only against 5 of them on the sole ground that the acquittal was against the weight of evidence on the record.”

7. In view of the settled principle of law as laid by the Hon’ble Apex Court time and again, this court does not find any substantial or compelling reason(s) in the present case to reverse the findings of the learned lower Appellate Court.

8. In view of the facts and circumstances of the present 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 or the learned Appellate Court which warrants interference by this Court. As such, there is no merit in the present petition and the same is dismissed.

February 11, 2025
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(HARPREET SINGH BRAR)
JUDGE

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