



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

CRR-3293-2016

Date of decision: 27.01.2025

BALBIR SINGH

...PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Kumar Saini, Advocate for the petitioner.
Ms. Anuradha, Advocate for Mr. Anshul Mangla, Advocate for
respondent Nos.2 to 13.
Mr. Neeraj Sheoran, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed against the impugned judgment dated 04.08.2016 passed by learned Additional Sessions Judge, Karnal, whereby judgment of conviction dated 04.09.2013 and order of sentence dated 05.09.2013 passed by learned Additional Chief Judicial Magistrate, Karnal has been reversed and private respondents have been acquitted.

2. Brief facts of prosecution case is that on 02.11.2006, complainant Balbir Singh son of Lachhi Ram resident of village Dhanora Jagir moved a complaint to SHO Indri alleging therein that the accused persons i.e. private respondents took his son Dharam Pal to the Khera(Temple), who is of unsound mind, they got his hair cut and blacked his face. He was garlanded with shoes and was taken round the village. On the basis of this complaint, FIR (supra) was got 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 the prosecution has miserably failed to prove the charges framed against the



accused persons. There are several improvements in the testimony of the complainant. Victim of alleged offence namely Dharampal was not cited as a witness nor examined by the prosecution. Furthermore, the prosecution has failed to produce any evidence to prove that injured Dharampal was not mentally fit to make a statement. As such, in absence of examination of main victim of the alleged offence, the private respondents are entitled to benefit of doubt. Moreover, there was no reason for the prosecution not to examine even the *Sarpanch* or *Panch* of the *Gram Panchayat* of the village, despite the fact that the alleged incident is said to have been committed in front of the whole *Panchayat*. The investigating agency had also failed to recover the case property i.e. the garland of shoes said to have been put around the neck of Dharampal before taking him in a procession across the village. As such, only vague allegations have been levelled against the private 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 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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