

CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 & CRM-A-37-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 23.05.2025

1. CRM-A-5839-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

2. CRM-A-5840-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

3. CRM-A-5841-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

4. CRM-A-10844-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

5. CRM-A-10866-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

6. CRM-A-10867-MA-2018 (O&M)

Provident Fund Inspector

....Applicant

Versus

CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 & CRM-A-37-2019

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M/s. Lakhani Limited and others	Respondents
7. CRM-A-7-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents
8. CRM-A-12-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents
9. CRM-A-13-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents
10. CRM-A-25-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents
11. CRM-A-31-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents
12. CRM-A-33-2019 (O&M)	
Provident Fund Inspector	Applicant
Versus	
M/s. Lakhani Limited and others	Respondents

CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 & CRM-A-37-2019

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13. CRM-A-37-2019 (O&M)

Provident Fund Inspector

....Applicant

Versus

M/s. Lakhani Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Sharma, Advocate
for the applicant (in all the appeals)

Mr. Devyansh, Advocate
with Mr. Dinesh Chaudhary, Advocate
and Mr. Jagdish Manchanda, Advocate
for respondent No.3 (in all the appeals)

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 and CRM-A-37-2019, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CRM-A-5839-MA-2018.

CRM-45252-2018 in CRM-A-5839-MA-2018
CRM-45254-2018 in CRM-A-5840-MA-2018
CRM-45256-2018 in CRM-A-5841-MA-2018
CRM-45693-2018 in CRM-A-10844-MA-2018
CRM-45821-2018 in CRM-A-10866-MA-2018
CRM-45824-2018 in CRM-A-10867-MA-2018

The present applications have been preferred under Section 391 Cr.P.C. read with Section 482 Cr.P.C. seeking to place on record the

CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 & CRM-A-37-2019

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orders dated 23.12.2011, 24.08.2012, 28.09.2012, 23.04.2013 passed by the enquiry officer (Regional Provident Fund Commissioner, Faridabad) under Section 7A of the Employees Provident Funds & Miscellaneous Provisions Act, 1952.

The power conferred under Section 391 of the Criminal Procedure Code, 1973 to allow additional evidence at the appellate stage is discretionary in nature. This discretion must be exercised sparingly and only in appropriate cases. The provision is analogous to Order XLI Rule 27 of the Code of Civil Procedure, 1908, and does not grant an automatic right to produce additional evidence in appeal. The appellate court must invoke this power judiciously, grounded in sound legal principles and guided by the interests of justice. It cannot be used to simply fill gaps or cure deficiencies in the evidence already on record. Moreover, the appellate court is mandatorily required to record reasons for admitting such evidence, serving as a safeguard against the casual or liberal reception of evidence at a belated stage. The key test remains whether the additional evidence is essential for a fair and just adjudication of the matter. Reliance in this regard can be placed on judgments rendered by the Hon'ble Supreme Court in ***Rambhau vs. State of Maharashtra 2001(2) R.C.R.(Criminal) 721*** and ***Zahira Habibullah H. Sheikh and another vs. State of Gujrat and others 2004(2) R.C.R(Criminal) 836.***



Further, the Hon'ble Supreme Court in ***Ajitsinh Chehuji Rathod vs. State of Gujarat and another (2024) 4 SCC 453***, speaking through Justice Sandeep Mehta, has observed as follows:

“9. At the outset, we may note that the law is well-settled by a catena of judgments rendered by this Court that power to record additional evidence under section 391 CrPC, 1973 should only be exercised when the party making such request was prevented from presenting the evidence in the trial despite due diligence being exercised or that the facts giving rise to such prayer came to light at a later stage during pendency of the appeal and that non-recording of such evidence may lead to failure of justice.”

In criminal jurisprudence, it is a settled principle that the prosecution or complainant must establish the guilt of the accused beyond reasonable doubt. This high standard of proof is rooted in the presumption of innocence, a fundamental right of every accused person. The burden lies squarely on the complainant to prove each element of the offence with cogent, reliable, and credible evidence. Any reasonable doubt arising in the mind of the court must operate in favour of the accused. Consequently, allowing additional evidence at the appellate stage cannot be a means to remedy investigative or prosecutorial lapses. Rather, it must be permitted only when such evidence is indispensable for securing the ends of justice and not for fortifying an otherwise weak or incomplete prosecution case.

In the case at hand, the evidence sought to be placed on the record does not help the case of the complainant in any manner as it. Moreover, even reading the same in evidence would not satisfy the



rigours of beyond reasonable doubt. As such, this Court does not find merit in the present applications and accordingly, the same are dismissed.

CRM-A-5839-MA-2018 (O&M) and other connected cases

2. All the instant appeals have been preferred against the judgment dated 08.06.2018 passed by learned Chief Judicial Magistrate, Faridabad, vide which respondents No.1 to 3 have been acquitted in the criminal complaint(s) filed under Sections 14(1A)/14A of the Employees Provident Funds & Miscellaneous Provisions Act, 1952.

3. Briefly stated, the facts of the case are that the Provident Fund Inspector filed criminal complaint(s) against M/s. Lakhani India Ltd. (Accused No.1) and its alleged Chairman-cum-Managing Director, P.D. Lakhani (Accused No. 2) and Director Dr. Amarjeet Kalra (Accused No. 3) under Sections 14(1A) and 14A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, by levelling the allegation that the accused failed to pay the Provident Fund and Pension contributions of certain employees for a specified period. The complainant asserted that accused No.2 and 3 were responsible for the conduct of the business of the company and hence, liable for the default.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the main reason for the acquittal of the accused persons is the complainant's failure to provide strong and clear evidence proving the

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commission of an offence. The material witness, CW-2 S.K. Hasija, the complainant on behalf of the Provident Fund Department, admitted during his cross-examination that the complaint did not include the names of affected employees and that he could not verify the dues from any records. He also failed to explain how the Provident Fund and Pension contributions were calculated. No inspection report, salary or attendance registers, or employee list was produced to substantiate the alleged dues. CW-1 Sneha Lata admitted that she neither witnessed nor conducted any inspection. Moreover, CW-2 could not prove that accused No. 2 and 3 held the positions of Chairman-cum-Managing Director or Director, or that they were in charge of the company at the relevant time. The other witnesses also failed to establish the guilt of the accused and ultimately, all the accused were granted the benefit of doubt and acquitted.

5. The power of the Court below 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 favors the accused should prevail over the other pointing towards his guilt. Furthermore, the learned Court below has the additional advantage of closely observing the prosecution witnesses and their demeanor, while deciding about the reliability of the version of prosecution witnesses.

(See H.D. Sundara and others vs. State of Karnataka, Criminal

CRM-A-5839-MA-2018, CRM-A-5840-MA-2018, CRM-A-5841-MA-2018, CRM-A-10844-MA-2018, CRM-A-10866-MA-2018, CRM-A-10867-MA-2018, CRM-A-7-2019, CRM-A-12-2019, CRM-A-13-2019, CRM-A-25-2019, CRM-A-31-2019, CRM-A-33-2019 & CRM-A-37-2019

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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 of *State of Haryana vs. Ankit and others* passed 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 Court below.

6. In view of the facts and circumstances of the case, this Court finds that learned counsel for applicant 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 appeals and hence, the same are hereby dismissed.

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

8. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

23.05.2025
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No