



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

CRR-2450-2024

Date of decision: 13.02.2025

MANISH

...PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Goyal, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been filed against the impugned judgment dated 21.11.2018 passed by learned Judicial Magistrate Ist Class, Panipat as well as impugned judgment dated 24.04.2024 passed by learned Additional Sessions Judge, Panipat, whereby respondent Nos.2 to 5 have been acquitted by both the Courts below.

2. The prosecution version is that complainant Manish S/o Nafe Singh was returning home with his brother Nitin & friend Abhimanyu from Neha Sports Shop at Insar Bazar on 13.11.2010. When they were passing by Hi-Fi Fashion Shop, complainant's co-villagers namely Devender & Vijay called out his name. Devender told him that denim pants bought by him, two hours ago, were not fitting him well. The shopkeeper refused to exchange it and telephonically called somebody. The moment they were leaving the shop, Mukesh, Annu, Sakha, Anil, Dina & 5-6 other boys suddenly came there armed with *danda* & glass bottles. Thereupon, shop owner slapped the complainant and said that they should be taught a lesson for trying to



exchange the pants. Accused Dina, Sakha & Annu held complainant, his brother Nitin & friend Abhimanyu by their necks and pulled them out. 10-15 boys, who were standing outside the shop, attacked them with iron *sarias*, *dandas* and glass bottles. Accused Dina hit complainant on his face with a glass bottle, thereby breaking two of his teeth and causing severe injuries on his lips. Sakha hit him on his head with an iron *saria* and the remaining boys hit him with *dandas* and bottles. They also beat up Devender & Vijay. On this information, 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 incident took place on 13.11.2010 but the complainant's statement was recorded after a delay of 03 days, which remains unexplained. Further, Test Identification Parade of the accused persons was not conducted, which was fatal since, complainant Manish and other injured specifically named Mukesh, Annu, Sakha, Anil and Dina as assailants but none of them were challaned and their names were put in column No.2 of the final police report. Further, none of the accused, who were facing trial, was specifically named by the complainant or other injured persons in their statements made to police, which makes the prosecution version highly doubtful. Furthermore, the incident took place in a crowded place and independent witnesses examined by the prosecution did not support its version and were declared hostile and all the witnesses examined by the prosecution are interested witnesses. There are several material contradictions in the testimonies of several prosecution witnesses to create a reasonable doubt regarding the role of accused persons. Furthermore, the complainant Manish and injured deposed that they were admitted in the hospital by Rajesh, however, in the MLRs it is recorded that



they were accompanied by Nafe Singh and the complainant deposed that he had made a statement to the police regarding the incident on 14.11.2010, but no such statement is on record. 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 Courts below, which warrants any interference. Accordingly, the present revision petition is dismissed.

February 13, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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