

**CRR-2676-2024 (O&M)****1****274****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-2676-2024 (O&M)****Date of Decision: 27.01.2025****THE PUNJAB STATE COOPERATIVE SUPPLY AND MARKETING
FEDERATION LTD. MANSA THROUGH ITS DISTRICT MANAGER,
MARKFED MANSA****...Petitioner****Versus****KAMAL BHUSHAN AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Amainder Preet, Advocate
for the petitioner.***********Harpreet Singh Brar, J. (Oral)**

1. This revision petition has been filed against the judgment dated 05.09.2024 passed by learned Additional Sessions Judge, Mansa vide which the judgment of acquittal dated 30.10.2019 passed by learned Additional Chief Judicial Magistrate, Budhlada has been upheld.
2. The prosecution story, in brief, is that the present case has been registered on the basis of application moved to SP Mansa to the effect that during crop year 2010-2011, JRD Rice Mansa was allotted by District Allotment Committee to markfed on dated 25.10.2010 for custom milling of paddy. Accordingly, markfed has executed an agreement on dated 02.11.2010. As per paddy policy, markfed had stored 36424 bags of paddy weighing 12748.40 quantal with the rice mill for custom milling. As per agreement, the mill has to deliver the entire rice to FCI in Markfed account upto last date i.e. 30.06.2012, but the miller had not delivered the entire rice. On dated 12.06.2012, three cheques worth Rs.1.15 crore vide letter were got markfed with the written consent that in

case he has failed to deliver the rice upto 30.06.2012, the cheques may be encashed by the Markfed. On 04.07.2012, physical verification was conducted of the mill and found that there was embezzlement of rice to the tune of 5853.33 quintal. Request was made to SSP Mansa for lodging the FIR vide Letter No.5647 dated 25.11.2014 against the mill and its owner. Therefore, accused was arrested. His personal search was conducted. Site plan of recovery was prepared. Statements of witnesses under Section 161 of Cr.P.C. were recorded.

3. Having heard the learned counsel for the petitioner and after perusing the record of the case with his able assistance it transpires that the JRD Rice Mills Mansa firm was being run by Jagdish Rai as its sole proprietor and thus the criminal proceedings for any fault on the part of the firm can be instituted against him only. Moreover, the accused being son of Jagdish Rai who was the sole proprietor of JRD Rice Mills Mansa has already deposited the entire amount and this fact has duly been admitted by the prosecution witnesses examined during the trial proceedings. Learned Court below concluded that bare perusal of the evidence of complainant namely Vinod Kumar, District Manager markfed reflect that JRD Rice Mills Mansa was having an agreement with the markfed Department whereby they were receiving paddy and returning the rice to the markfed Department after milling. The said firm was a sole proprietorship concern run by one Jagdish Rai. Learned Court below further concluded that as per the agreement *inter-se* the markfed and JRD Rice Mills Mansa it was agreed that in case of any dispute the matter shall be referred to the arbitrator and admittedly an arbitration award was passed *inter-se* the parties but the same was dismissed when challenged in the judicial Court. However, the appeal against the same is pending with this Court. Moreover, as per factual matrix available

on record in view of the evidence led by the prosecution especially the official of the markfed department its get reflected that a settlement was arrived at between the JRD Rice Mills Mansa and markfed Department. Thus, in view of the aforesaid, learned trial Court has rightly acquitted the accused-respondent No. 1 in the present complaint and the said judgment has also been upheld by learned lower Appellate Court.

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

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

(HARPREET SINGH BRAR)
JUDGE

27.01.2025
Ajay Goswami

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