

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

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CRR No.756 of 2018 (O&M)

Date of decision: 10.03.2025

Haryana State Ware House Corporation

....Petitioner

Versus

Ramphal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Johny Vij, Advocate and
Mr. Lekh Raj Sharma, Advocate
for the petitioner.

Mr. Sandeep Berwal, Advocate
for respondent No.1.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR J. (Oral)

CRM No.7391 of 2018

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 461 days in filing the revision petition.

Heard.

In view of averments made in the application, the same is allowed and delay of 461 days in filing the revision petition stands condoned.

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1. The present revision petition has been preferred against the judgment dated 12.07.2016 passed by learned Additional Sessions Judge, Kaithal as well as the judgment dated 15.07.2014 passed by

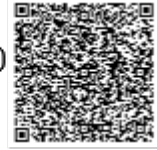
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learned Additional Chief Judicial Magistrate, Kaithal, vide which respondents No.1 and 2 have been acquitted in FIR No.26 dated 27.02.2009, registered under Sections 408 and 120-B IPC at Police Station Dhand, District Kaithal.

2. The brief facts of the case are that an FIR No.26 dated 27.02.2009 was registered under Sections 408/120-B IPC against the respondents-accused based on the statement of the Manager, State Warehouse, Kaul, wherein it has been alleged that a theft had occurred at the State Warehouse, Kaul, in which 487 bags of paddy were stolen. The theft came to light on 24.02.2009 when Smt. Shimla Devi, a Peon, noticed that the latch of gate No.3 of Godown No.3 (South side) was broken. Initially, the FIR (supra) was registered under Sections 457/380 IPC against unknown persons, however, the police later submitted a cancellation report, stating that no case under Sections 457/380 IPC was made out, and it appeared that the 487 bags of paddy were misappropriated by an employee. Subsequently, an inquiry was conducted against the respondents-accused, and they were found guilty in a departmental inquiry. Following this, the Manager, Haryana Warehousing Corporation, filed an application for re-investigation of the case. After re-investigation, a challan under Section 408 IPC was filed against the respondents-accused. Thereafter, investigation was brought into motion. Statements of witnesses were recorded. Accused were arrested and after completion of investigation challan was prepared and presented in the Court.

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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 main reason for the acquittal of the accused persons is the prosecution's failure to prove the guilt of the accused beyond reasonable doubt. It was incumbent upon the prosecution to prove the stock available on 21.02.2009 and on 24.02.2009, as well as the date and time of duty of the accused, however, the relevant records, including the attendance and stock registers, were not duly proved. The documents were only marked and not properly authenticated, and no effort was made by the prosecution to produce the original records in the learned Court below. In the absence of the attendance register, it could not be established beyond reasonable doubt that the accused were on duty during the relevant period. Furthermore, while the inquiry report (Ex.PW9/B) was relied upon by the prosecution, it cannot be treated as conclusive proof in a criminal case. The inquiry report may have been sufficient for the departmental inquiry, but it is not enough to establish the guilt of the accused beyond reasonable doubt in this criminal case. Additionally, the prosecution's reliance on the disclosure statements made by the accused during custody is not admissible, as per the bar provided under Sections 25 and 26 of the Indian Evidence Act. Therefore, in the absence of concrete evidence linking the accused to the crime, and considering the lack of essential documents, the prosecution has failed to prove its case beyond reasonable doubt. Consequently, in the absence of substantial evidence connecting the



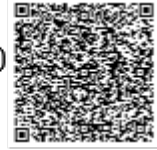
accused to the crime led to reasonable doubt, ultimately resulting in the acquittal of the accused persons.

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 learned Court below 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 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 Court below.

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 Courts below which warrants interference by this Court. As such, there is no merit in the present revision petition and hence, the same is hereby dismissed.

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

(HARPREET SINGH BRAR)
JUDGE

10.03.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No