

CRR-684-2007 (O&M)

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

CRR-684-2007 (O&M)

Date of decision:16.06.2023

Kaur Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Pradeep Virk, Advocate for the petitioner

Mr.Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

1. Challenge has been laid to the judgment dated 12.03.2007, rendered by the Sessions Judge, Faridkot, whereby the appeal filed by the petitioner against the judgment /order dated 22.07.2005, passed by the Principal Magistrate, Juvenile Justice Board, Faridkot, convicting and sentencing her for an offence under Section 302 IPC and Section 25 of the Arms Act, was dismissed.

2. Shorn of unessentials, Kaur, 16 years and 4 months old, studying in class XI made a statement, on the basis of which FIR No.132 dated 16.08.2003 was registered against unknown persons, under Sections 302/452/34 IPC and Sections 25/27 of the Arms Act (Section 452 IPC was deleted and Section 120-B IPC added later on). She slept at about 12.30 am, on a cot in the verandah. After about 15-20 minutes, a noise was heard by her from the room. She saw two persons coming from the side of kothi, which was under construction, who were in the age group of 25-30 years and could be identified in case they were brought before her. One of them picked up the gun, loaded it and fired a shot in the air. Thereafter, he put the gun on the right temple of her father, shot him and then ran away from the spot. Her father was got admitted in the hospital, where he

succumbed to the injuries. Subsequently, after 8/10 days of the occurrence, she is said to have made an extra-judicial confession of having committed the crime at the instance of one Gurinder Singh alias Goldi, before one Gurdev Singh, who 4-5 days later informed the police regarding the same. She was arrested after a period of 2 months and 7 days on 23.10.2003. At the conclusion of the investigation, the final report was submitted against her. Thereafter, on finding a prima facie case, charges were framed against her under Section 302 IPC and Section 25(54)(59) of the Arms Act, to which she pleaded not guilty and claimed trial. The petitioner was tried by the Juvenile Justice Board.

3. In the eventual trial, the prosecution examined nine witnesses. The petitioner, in her statement recorded under Section 313 Cr.P.C., denied all the incriminating circumstances that appeared against her in the prosecution case. While pleading innocence, she specifically stated that her father was killed by unidentified persons and alleged false implication in this case. However, no evidence was led in her defence.

4. The trial Court finding strength in the prosecution case, convicted and sentenced the petitioner, as noticed above.

5. An appeal was preferred by the petitioner before the Additional Sessions Judge, Faridkot, who while concurring with the trial Court, dismissed the same vide judgment dated 12.03.2007.

6. Aggrieved petitioner is now before this Court.

7. The learned counsel for the petitioner contended that there was no eye witness to the occurrence and without there being any valid and sufficient evidence to link the crime with the petitioner, the Courts below have erroneously convicted her. It has been assiduously urged that not only the alleged extra-judicial confession remained uncorroborated as two persons stated to have accompanied

her were not examined, but the same was also stated to have been made 8-9 days after the incident, that also before one Gurdev Singh, who was neither a resident of the same village nor close to either the petitioner or her family and further the said person though having admitted that he was a frequent visitor of the police station, which was also situated only at a distance of 9-10 kms from his village, still informed the police regarding the same after a delay of 4/5 days. The gun allegedly having been held by the petitioner as stated by Balkar Singh, was not got examined by the FSL for fingerprints on it. Furthermore, four empty cartridges were recovered from the spot but definite opinion by the FSL was given only regarding one cartridge, to have been fired from the 12 bore double barrel gun, which shows presence of another weapon, that remained unexplained. The family members of the petitioner though were joined in the investigation, however, their statements were not got recorded, which casts a dent on the prosecution version. Moreover, the motive behind the commission of the offence was not proved. The evidence led by the prosecution is lame and infirm and the trial Court ought not to have held the petitioner guilty on the basis thereof. The actual genesis of the false implication of the petitioner, was to disentitle her from inheriting the property in view of Section 25 of the Hindu Succession Act, 1956. A civil suit was also filed by the grandmother, mother and brother of the petitioner against her. In the cross-examination, her mother had admitted of not having known any person named Gurinder Singh @ Goldi prior to the said occurrence or who killed her husband and also that she could not tell, if the petitioner had any reason to kill Milkha Singh and that 4-5 persons were sleeping near him on the said night. She had engaged a lawyer to defend the petitioner. In the trial of co-accused, Goldi, who had allegedly provided the petitioner with the intoxicants and at whose instance, the petitioner as per her extra judicial confession committed the crime,

was acquitted of the charge under Section 302 read with Section 120-B IPC, by the learned Additional Sessions Judge, vide judgment dated 04.12.2011, as the said Gurdev Singh, completely resiled from his statement denying that the petitioner had ever come to him or made any statement regarding murder of her father, in light of which, submission advanced was that he was not a trustworthy and reliable witness. No appeal was filed challenging his acquittal. Once, he was acquitted, allegedly, who had given the intoxicating tablets to the petitioner and she had committed the crime at his instance, is a pertinent fact that leans in favour of acquittal of the petitioner. There are material contradictions in the statements of PW1 Gulzar Singh and PW2 Balkar Singh. Another flaw shown in the judgments of the Courts below was that the sentence of five years could not have been awarded as Section 15(1)(g)(ii) of the Juvenile Justice (Care and Protection of Children) Act, 2000 provided it to be awarded for the period the juvenile ceases to be such and as per the amended Section 15(1)(g) carried out in 2006, the maximum sentence could have been for three years. To bolster his above submissions, reliance has been placed upon **Trimukh Maroti Kirkan vs. State of Maharashtra**, (2006) 10 SCC 681, **Parasa Koteswararao vs. Eede Sree Hari**, (2017) 11 SCC 52, **Anand Ramachandra Chougule vs. Sidarai Laxman Chougala**, (2019) 8 SCC 50, **Ram Pratap vs. State of Haryana**, (2023) 2 SCC 345 and **Karan vs. State of M.P.**, 2023 SCC OnLine SC 217.

8. Learned State counsel argued that the petitioner has been rightly convicted. The motive behind the act is the fact that the deceased objected to her relationship with co-accused Goldi. The fatal injury was caused by a double barrel gun, licensed to her grandfather that was fired point blank. PW2 Balkar Singh had seen the petitioner holding the weapon and stated that all the family members were lying unconscious, when he reached the house of the deceased. The FIR was

registered as per the version of the petitioner, who herself was trying to misguide. There is no reason forthcoming in her defence of false implication. Gurdev Singh was a respectable person therefore the petitioner having had gone to him to give extra-judicial confession was probable. Had there been an entry of two strangers as stated in the FIR by the petitioner, there would have been a possibility of causing injury to some other family member present at the spot and not only to the deceased. Neither the civil proceedings initiated against the petitioner subsequent to her conviction nor statement made by her mother nor the statement made by Gurdev Singh in the trial of co-accused Goldi, whereby he was acquitted, can be taken into consideration in the present case, as per the judgment of Hon'ble The Supreme Court in the case of **A.T. Mydeen vs. Customs Department**, 2021 SCC OnLine SC 1017. However, there was no challenge to his acquittal, was not controverted.

9. Heard the learned counsel for the parties at length and perused the record with their able assistance.

10. The fact - deceased Milk Singh died on account of a firearm injury. There were no eyewitnesses to the occurrence and the prosecution case rests solely upon circumstantial evidence. Several questions of law that arise for consideration are:

- (1) Whether the prosecution failed to produce material witnesses?
- (2) Whether a presumption against the veracity of any part of the prosecution version arose due to their non-production?
- (3) Whether the prosecution instead of the accused had been given the benefit of doubt by the Courts on various features of the case on which two views were possible?
- (4) Whether the extra-judicial confession received corroboration from other evidence on record?
- (5) Whether there were material inconsistencies and discrepancies in the statements of the prime witnesses?

- (6) Whether the prosecution case was marred by an infringement of the best evidence rule regarding the examination of cartridges and for the petitioner's finger prints on the gun said to have been used for the crime?
- (7) Whether the circumstantial evidence unerringly pointed towards the guilt of the petitioner?

11. Turning back to the facts of this case, the conviction against the petitioner is resting on the bedrock of an extra-judicial confession allegedly made before PW4 Gurdev Singh and the statements of PW2 Balkar Singh as also PW1 Gulzar Singh.

12. The petitioner is stated to have made an extra-judicial confession allegedly to PW4 Gurdev Singh, who lived in a nearby village Jheeta and stated to be on visiting terms in her house, after 8/9 days of the incident. He admitted to be visiting the police station oftenly. She had come alongwith two persons, namely, Gurmail Singh Barnala and Kala Singh of Sander, who he admitted in his cross-examination were not in his relations. In his examination in chief, he stated that the petitioner had told him that she had fallen in love with a boy 5-6 months prior to the occurrence, which fact came to the knowledge of her father Milkha Singh, who objected this affair and tried to stop her to go to school. She had met the boy Gurinder Singh on 15.08.2003, when she went to Zira and he told him that he will give her some tablets about 100 in numbers and she should mix them in food and give to the family members. When they fall unconscious she should pick up the gun of her grandfather and fire towards the head of her father. In execution of this design, she mixed the tablets in eatables to be consumed in the night and herself viewed the television. When all of them fell unconscious she took the gun and fired in the air twice, after she was satisfied that all have fallen unconscious, she again loaded the gun and pointed the same towards the head of her father and fired. Later on she raised hue and cry, which attracted Gulzar Singh, Sarpanch and

Balkar Singh, who came there. She took her father to the hospital. She had committed the crime at the instance of Goldi @ Gurinder Singh.

13. PW2 Balkar Singh, whose house was right opposite to that of the deceased, as established from the site plan, had stated to have heard the sound of gun shot from the house of deceased and saw the petitioner standing with a gun in her hand at the veranda but did not see her firing from it. Though, as stated in his cross-examination when the shot was fired, he was sleeping. He called Gulzar Singh of his village and told the petitioner that he is coming. He alongwith the aforesaid Gulzar Singh went to the house of the deceased. She opened the gate and they found Milkha Singh injured but still breathing and all other members of the family were lying unconscious. He alongwith the petitioner and Gulzar Singh took the injured to the hospital.

14. As per the deposition of PW1 Gulzar Singh, PW2-Balkar Singh came to his house and told him that somebody had shot a fire towards Milkha Singh, killing him. He, in his personal car went to the place of occurrence, whereafter, they along with the petitioner took the deceased to the hospital.

15. In his statement, PW3 HC Narinder deposed that he had visited the spot alongwith PW7, IO Mukhtiar Singh and corroborated the recovery.

16. PW7, SI Mukhtiar Singh, who was the Investigating Officer, had received a wireless message that one Milkha Singh was lying in Civil Hospital in an injured condition. Upon reaching there, he found the dead body in the mortuary, recorded the statement of the petitioner and subsequently, inspected the place of occurrence and prepared the site plan. It was admitted in his cross-examination that the dog squad was not mentioned in the final report filed. The statement of the retainer of the dog squad, whose name was stated by him in the cross-examination to be perhaps Gurmit Singh, was not recorded. It is further

stated that the village of PW4 Gurdev Singh is Chita which is about 9/10 kms away from the police station. It was his further admission in the cross-examination that though six members of the family of the deceased were joined in the investigation, but no statement was recorded. He had also stated therein that nobody told him regarding relations of petitioner with Goldi.

17. It had been deposed by PW5 Chirag, Chowkidar that on the night of occurrence, he had heard the noise of fire. The police, in his presence, took possession of the two empty cartridges and 12 bore gun and blood stained earth from two places, which were sealed in containers. However, in his cross-examination, he had stated that he neither can tell the impression of the seal, nor was anything read over to him and he was only asked to sign.

18. PW6- Narinderpal Singh in his examination-in-chief deposed that he had received a telephone call at 2.30 am on 16.08.2003 that somebody fired at Milkha Singh. He was admitted in Civil Hospital. However, by the time, he reached the hospital, the said injured had died. The postmortem documents were prepared in his presence and he received the body of Milkha Singh vide receipt Ex.PA, on which he and Gulzar Singh put their signatures.

19. PW8 HC Balbir Singh tendered his affidavit regarding taking the charge of Malkhana on 25.08.2003 from MHC Jaswant Singh and averred that the recovery effected in the said FIR was already lying as per record. Out of the said recovery, few sample parcels were handed over to PW9 Boota Ram to deposit the same to the FSL on 26.08.2003 but received back with objection. Thereafter, on 31.08.2003 after removing the objection, again handed over the said parcels to PW9 Boota Ram, who deposited it to FSL, Chandigarh.

20. PW9-HC Boota Ram, tendered his evidence by way of affidavit for the purpose of examination-in-chief stating therein that he received the parcels and

deposited the same to the FSL. In his cross-examination, he stated to have received the case property on 26.08.2003 and deposited it on the next day i.e. 27.08.2003. Further that, he cannot tell the number of the seal.

21. To make the maze clear, the facts being encapsulated are that the incident is said to have taken place in the dead of the night at the home of the deceased. Though the family members of the petitioner were present but, as stated by PW2 Balkar Singh, were unconscious. However, PW1, Gulzar Singh, did not utter anything about this fact, inspite of them having gone to the house of the deceased together, as stated by PW2 Balkar Singh. The statements of family members were not recorded by the Investigating Officer, PW7-Mukhtiar Singh, who visited the spot alongwith PW3-HC Narinder Singh and admitted having joined them in the investigation. Both the above witnesses neither stated that the family members were unconscious nor were they told by anyone regarding this fact nor that any evidence of any intoxicant tablets was found by them at the spot. Had the aforesaid been a fact, some evidence of medical treatment given to them would have been led by the prosecution. Nonetheless, as per the extra-judicial confession, the petitioner was stated to be given 100 tablets by Gurinder Singh @ Goldi. She mixed the same in eatables and committed the crime at his instance. There is nothing on record from which it can be discerned that any enquiry was made regarding its purchase and as to when and where these were handed over to her by the abovesaid person.

22. PW-2, Balkar Singh, living right opposite the house of the deceased, had heard the shot while he was asleep and did not see the petitioner or anyone firing the gun. However, he, instead of first going to the house of the deceased, called one Gulzar Singh, PW1, who deposed that in fact Balkar Singh had first come to his house. Still further Gulzar Singh stated that Balkar Singh had told him

that somebody had fired towards Milkha Singh and killed him, a fact which the said witness could not have known without either having witnessed the occurrence or visiting the house of the deceased. Moreover, he in his statement, while appearing as PW2 had stated that he visited the house of the deceased alongwith Gulzar Singh.

23. The extra-judicial confession allegedly made by the petitioner was to one PW-4, Gurdev Singh, who had in his cross-examination admitted to be a resident of nearby village and was only on visiting terms with the family of the petitioner and did not even attend the Bhog ceremony of deceased Milkha Singh. *Firstly*, there is no evidence brought forth by the prosecution to prove his proximity with the family of the deceased. Though, they would have been the best witnesses to prove the same but were not examined. However, it be noted that the others, who were examined i.e. PW1 Gulzar Singh-Ex-Sarpanch, PW2, Balkar Singh-neighbour, PW6-Narinderpal Singh, co-villager and PW5 Chirag-Chowkidar also did not in their deposition confirm the fact of PW-4, Gurdev Singh having been close to the family. For the petitioner to have chosen him to confide in, appears to be incogitable. *Secondly*, PW4 Gurdev Singh in his examination-in-chief had also stated that the petitioner came to him after 8/9 days accompanied by Gurmail Singh Barnala and Kala Singh of Sander, however, they were not joined in the investigation. *Thirdly*, he then informed the police about the same on 29.08.2003, when his statement was recorded, inspite of the petitioner having confessed on 24.08.2003 i.e. 8/9 days from the date of occurrence seems implausible, he, being a frequent visitor at the police station, as per his cross-examination. *Fourthly*, the petitioner is said to have raised hue and cry, that attracted PW1 Gulzar Singh and PW2 Balkar Singh, to come there, but this fact

was not stated by either of them in their depositions. *Fifthly*, there is lack of corroboration to the same from any quarter, further denuding it of reliance.

24. Hon'ble The Supreme Court in **Sahadevan vs. State of T.N.**, (2012) 6 SCC 403 after analysing a myriad of cases, laid down the principles, that would render an extra-judicial confession admissible as proof that may be the basis for conviction of an accused, which read thus,

“16... i) The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution.

ii) It should be made voluntarily and should be truthful.

iii) It should inspire confidence.

iv) An extra-judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

v) For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

vi) Such statement essentially has to be proved like any other fact and in accordance with law.”

25. There is no specific mathematical formula that exists to definitively and conclusively determine the veracity of a prosecution or defence case. The same relies on the evidence presented in an individual case, based on the testimonies and demeanour, clarity, credibility of witnesses, and, ultimately, the conscience of the Court evoked by the evidence adduced.

26. A close look taken of the record and proceedings reveal that pertinently, the recovery effected from the spot was of 4 cartridges of 12 bore double barrel gun. As per the FSL report dated 28.08.2003, one 12 bore Shaktiman Express cartridge, C/2 could have been fired from the right barrel and one 12 bore K.F. special cartridge, C/3 was found fired from left barrel, however, regarding the two other 12 bore cartridges i.e. K.F. special cartridge, C/1 and Shaktiman Express misfired cartridge, M/1, no definite opinion could be given due to lack of

sufficient individual characteristic marks. The Deputy Director, Ballistic, who had given the above report was also not examined to prove the same. The requirements of a technically proper proof were wanting.

27. The above infact is lending credence to the version of the petitioner of two unknown persons having entered the house, which was under repair and killed her father, who stated that she can identify, if they are produced before her. Apart thereto, in the FSL report, there was no definite opinion given that the 3 empties found at the spot, one of which was misfired, were fired from the weapon in question, thus, the possibility of another weapon could not be ruled out, it being not inconceivable, which the investigating authorities did not pay heed to explore. The said 12 bore double barrel gun, that the petitioner was purportedly holding as stated by PW2, Balkar Singh, could not be connected with her, it having not been sent for forensic examination, to ascertain the presence of her fingerprints thereon and the absence of any other strong corroborative evidence furnished in this regard by the prosecution. Thus, such vital piece of evidence being amiss, this Court finds it difficult to rely on the statement of the said witness and/or link the gun to the petitioner.

28. In the background of facts brought on record by the prosecution, the story being coined based on the statement of PW4 Gurdev Singh was that the petitioner in her extra-judicial confession had stated that she committed the crime at the instance of Gurinder Singh @ Goldi, on account of the objection of her father to their relationship and had intoxicated the entire family. However, the Investigating Officer, PW7, in his cross-examination stated that nobody told him regarding the relations of the petitioner with Gurinder Singh alias Goldi; none of the witnesses examined also stated this fact. As a matter of fact, it was the family

members, who could have affirmed the aforesaid proving the motive, but though joined, their statements were not recorded.

29. Notably, there are material discrepancies brought on record in the statements of the two prime witnesses PW1 Gulzar Singh and PW2 Balkar Singh, who had together gone to the house of the deceased. *Firstly*, only the latter stated that all the family members were lying unconscious; *secondly*, PW2 Balkar Singh was also the one, who had allegedly seen the petitioner holding the gun and that he had called PW1 Gulzar Singh, however, there is no mention in the statements of either of them that this important fact was disclosed by PW2 Balkar Singh; *thirdly*, PW1 Gulzar Singh stated that PW2 Balkar Singh had come to his house. Evaluating the credibility and reliability of the testimonies of these witnesses, the same in no way can be said to be substantive piece of evidence against the petitioner.

30. The law on circumstantial evidence as enunciated by Hon'ble The Supreme Court in **Sharad Birdhichand Sarda vs. State of Maharashtra**, (1984) 4 SCC 116, is thus:

“153 ... (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

... the circumstances concerned ‘must or should’ and not ‘may be’ established.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.”

31. In a case of circumstantial evidence, the Court has to examine the entire evidence in its entirety and ensure that the only inference that can be drawn from the evidence is the guilt of the accused. In the case at hand, contrarily there are the yawning gaps in the evidence which this Court has found very difficult to bridge in the chain of facts and circumstances that were required to be meticulously connected, rendering it far from being established-pointing to the guilt of the petitioner.

32. In **Bhagat Ram vs. State of Punjab** AIR 1954 SC 621 it was laid down by Hon’ble The Supreme Court that where the case depends upon the conclusion drawn from circumstances, the cumulative effect of the circumstances must be such as to negative the innocence of the accused and bring home the offences beyond any reasonable doubt.

33. Hon’ble The Supreme Court in **Trimukh Maroti Kirkan** (supra), held that, “In the case in hand there is no eyewitness of the occurrence and the case of the prosecution rests on circumstantial evidence. The normal principle in a case based on circumstantial evidence is that the circumstances from which an inference of guilt is sought to be drawn must be cogently and firmly established; that those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused; that the circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and they should be incapable of explanation on any hypothesis other than that of the guilt of the accused and inconsistent with their innocence.”

34. Hon'ble The Supreme Court in the case of **Malaichamy vs. State of T.N.**, (2019) 17 SCC 568, had observed that, "Before we proceed further, it would be worthwhile to recall that it has been settled through a catena of decisions that the court should satisfy itself that the various circumstances in the chain of evidence must have been established clearly and that the completed chain is such as to rule out a reasonable likelihood of the innocence of the accused. (see: **Jaharlal Das vs. State of Orissa**, (1991) 3 SCC 27; **Vijay Kumar Arora vs. State Government of Delhi NCT**, (2010) 2 SCC 353; **Munish Mubar vs. State of Haryana**, (2012) 10 SCC 464; **Dhan Raj vs. State of Haryana**, (2014) 6 SCC 745; **Nizam vs. State of Rajasthan**, (2016) 1 SCC 550) "

35. The quest for absolute truth in criminal cases presents an inherent challenge for the Courts. The judicial system relies solely on substantial and trustworthy evidence presented on record. Mere suspicion or circumstantial doubt cannot absolve the prosecution from its fundamental obligation to establish, beyond reasonable doubt, the guilt of the accused, for suspicion, regardless of its intensity, holds no evidentiary value.

36. In **Basheera Begam vs. Mohd. Ibrahim**, (2020) 11 SCC 174, it was held by Hon'ble The Supreme Court that, "It is well settled, suspicion however strong cannot substitute proof beyond reasonable doubt. Enmity as a result of property related disputes may give rise to suspicion. However, conviction can never be based on suspicion unless the prosecution clearly proves circumstances conclusively and all circumstances proved should only point to the guilt of the accused. Possibility of any conclusion other than the conclusion of guilt of the accused would vitiate a conviction."

37. The trial Court seems to have unwittingly got swayed by sentiment and prejudice against the reprehensible crime of patricide as alleged against the

petitioner and in that stead, went on to record that, “In these circumstances, we are of the opinion that there is enough evidence on record which goes to show that said Gurinder Singh alias Goldi is a co-accused and he has to be tried under Section 302/120B of the IPC. Accordingly a copy of this judgment alongwith covering letter be sent to the Senior Superintendent of Police, Ferozepur, for issuing necessary direction for conducting investigations in this case, even if the police has earlier found him innocent. Let the juvenile be heard on the quantum of sentence.” He however was acquitted in the trial, against which it is not shown that any appeal was filed. Moreso, both Courts heavily relied on the fact of family members being sedated, without ascertaining as to whether their medical examination was conducted or was there any other corroborating evidence regarding the same.

38. There are suspicious features appearing in the evidence which cast doubt on their version. The pieces of evidence on which the prosecution chose to rest its case were so fragile that they crumbled when this Court subjected them to close and critical examination, whereby the whole super-structure collapsed. It is not the conviction of the Court of a fact, that an accused person has committed a crime, but the satisfactory evidence of it on record that an offence is proved. This Court finds it hard-pressed to give credence to such allegations in the absence of any compelling and credible evidence to substantiate the same. The proved discrepancies can be considered to conclude that the prosecution is not consistent in placing the actual story. It seems that the Courts below had assumed many facets of the case and without scrutinizing the credibility of witnesses and being unmindful of the fact that the prosecution in the present case has miserably failed to bring home the guilt of the petitioner beyond all reasonable doubt, recorded her conviction. Thus, the concurrent findings of the Courts below cannot be sustained.

39. As a sequitur to the analysis and discussion above, this Court comes to the ineluctable conclusion that the petitioner is entitled to the benefit of the doubt.

40. The present revision petition is allowed. The impugned judgments are hereby set aside. The bail bonds furnished by the petitioner shall stand discharged.

41. Pending applications, if any, stand disposed of.

(AMAN CHAUDHARY)
JUDGE

16.06.2023

gsv

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No