

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Revision No. 2607 of 2006
Date of decision:- July 15, 2015

Chamkaur Singh

...Petitioner...

versus

State of Punjab

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Paramjit Singh Brar, Advocate,
for the petitioner.

Mr. R.P.S. Sidhu, AAG, Punjab,
for respondent-State.

JASPAL SINGH, J.

Present revision petition has been preferred by Chamkaur Singh, challenging his conviction and sentence imposed upon him vide judgment/order dated June 10, 2003 passed by Id. Chief Judicial Magistrate, Moga, in FIR No. 101, dated September 10, 1993, under Sections 420, 467, 468 and 471 IPC, which has further been upheld by Id. Additional Sessions Judge, Moga vide judgment dated December 13, 2006.

2. Briefly, stated case of prosecution is that a complaint was lodged by Malagar Singh resident of Dhilwan Wala and 14 other villagers to Senior Superintendent of Police, Faridkot on September 08, 1993 unfolding that grant was provided to them by

Government through Zila Parishad, Faridkot to raise construction of their houses. The said grant was released to them in installments. Three installments were already paid to them whereas fourth installment of ₹1,400/- each was though released by the Government to them in the form of cheques but those cheques of ₹1400/- each issued in their favour were got encashed by petitioner-Chamkaur Singh, who was posted as a Salesman of Co-operative Agriculture Service Society (in short, 'CASS') of village Dhilwan Wala by way of depositing the same in his account in Central Co-operative Bank, Moga branch Baghapurana by forging and fabricating their thumb impressions/signatures, attested by Ranjit Singh, Sarpanch. In fact, as per govt. instructions, said grant was to be released in their favour in the form of account payee cheques and same were required to be deposited in their accounts. Officials of Zila Parishad were having hands in glove with accused Chamkaur Singh and Ranjit Singh. Thus, they in connivance with each other, misappropriated the said amount.

3. On the basis of aforesaid complaint lodged by Malagar Singh and others, instant case was registered and investigation was put into motion. Subsequently, on completion of investigation, report under Section 173 (2) Cr.P.C. was presented in the Court of Id. Jurisdictional Magistrate, Moga, which ultimately, culminated into conviction and sentence of Chamkaur Singh vide judgment/order dated June 10, 2003. An appeal preferred by Chamkaur Singh against his conviction and sentence was also dismissed by Id.

Additional Sessions Judge, Moga vide judgment dated

December 13, 2006, finding no merit therein. Resultantly, instant petition was preferred. Finding that there are fairly arguable points in revision, it was admitted for hearing by this Court vide order dated December 22, 2006 and in response to the notice of motion, State counsel appeared.

4. Here, it would be pertinent to mention that during the pendency of instant revision, CRM No. 36024 of 2014 was filed by petitioner-Chamkaur Singh for impleading prosecution witnesses as party on the ground that matter has since been settled/compromised. Though, said application was disallowed, finding that there is no law to array PWs as party but considering the factum of compromise, this Court vide order dated December 03, 2014, directed learned State counsel to verify the fact whether compromise has been arrived at between the parties or not. In compliance of the said order, State of Punjab filed an affidavit of Inspector Avtar Singh No. 23/FR Station House Officer, Police Station Baghapurana, District Moga on its behalf, which was taken on record. Para No. 3 of the affidavit/reply is relevant and it would be appropriate to reproduce the same. It reads as under:-

“That in connection with said revision deponent had recorded the statements of witnesses Surjit Singh s/o Malagar Singh r/o Dhilawanwala, Dalip Singh s/o Veer Singh, Sant Singh s/o Bhan Singh, Dev Singh s/o Kala Singh, Surjit Singh s/o Hansa Singh, Inder Singh s/o Bishan Singh, Gurmail Singh s/o Kala Singh, Modan Singh s/o Uttam Singh, Puran Singh s/o Uttam Singh and Jeet Singh s/o Heera Lal all residents of village Dhilawanwala, Tehsil

Baghapurana, District Moga and in their statements all said persons have stated that now compromise has been effected with Chamkaur Singh. Said compromise has been effected between the parties with their free and sweet will and without any type of influence. They have also stated that they have no objection if present revision petition is accepted by the Hon'ble Punjab and Haryana High Court Chandigarh, and petitioner be acquitted from all the charges.”

5. A glance at the aforesaid paragraph makes it crystal clear that aggrieved persons have categorically admitted that compromise has been effected between the parties with their free and sweet will and without any sort of influence. It has further been stated by them that they have no objection if present revision petition is accepted by this Court and petitioner is acquitted from all the charges.

6. Apart from the contents of affidavit of Inspector Avtar Singh, this Court has also meticulously examined revision as well as impugned judgments. A large number of aggrieved persons, who appeared in witness-box before Id. trial court did not support the case of prosecution and ultimately, they were declared hostile. Though, they were subjected to cross-examination and contradicted with their statements recorded under Section 161 Cr.P.C. but nothing fruitful to the prosecution could be extracted from any of them. Some of the witnesses, who had supported the case of prosecution before Id. trial court have subsequently, effected the compromise and in pursuance thereof, they have furnished their sworn affidavits. Affidavits furnished by those persons are Annexures P-1 to P-6 and they are

Dalip Singh s/o Veer Singh, Inder Singh s/o Bishan Singh, Dev Singh s/o Kala Singh, Sant Singh s/o Bhan Singh, Surjit Singh s/o Hansa Singh, Surjit Singh s/o Malagar Singh.

7. Thus, from the contents of affidavits of above referred persons as well as affidavit of Inspector Avtar Singh, it becomes crystal clear that compromise has been arrived at between petitioner-Chamkaur Singh and all aggrieved persons and further that they have no objection, in case, instant revision is accepted and petitioner-Chamkaur Singh is acquitted of the charges.

8. In the light of what has been narrated, instant petition is allowed. Resultantly, impugned judgments/orders passed by both the courts below (under challenge) are set aside whereby petitioner-Chamkaur Singh stands acquitted of the charges.

July 15, 2015
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(JASPAL SINGH)
JUDGE