

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.2068 of 2012

.....

Date of decision:2.2.2015

Niranjan Singh

...Petitioner

v.

Hoshiyar Singh and others

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Anand Kumar Bishnoi, Advocate for the petitioner.

None for respondents No.1 and 2.

Mr. Deepak Grewal, Deputy Advocate General, Haryana
for the respondent No.3-State.

.....

Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned judgment dated 20.12.2012 passed by learned Additional Sessions Judge, Panchkula, whereby the appeal filed against the impugned judgment dated 24.8.2009 passed by the learned Judicial Magistrate Ist Class, Panchkula, vide which the accused-private respondents were acquitted, has been dismissed.

As per the facts of the case, private respondents No.1 and 2 have been acquitted for the offences under Sections 406, 420, 506 and 120-B IPC by the learned Judicial Magistrate Ist Class, Panchkula. The

appeal filed by the present petitioner was also dismissed by the learned Additional Sessions Judge, Panchkula.

Notice of motion has been issued in this case.

Mr. Deepak Grewal, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent No.3-State, but no one has appeared on behalf of respondents No.1 and 2.

I have heard learned counsel for the petitioner and learned Deputy Advocate General, Haryana appearing for the respondent-State and have gone through the record.

The brief facts of the case are that the FIR has been registered on the direction of the learned Chief Judicial Magistrate, Panchkula under Section 156(3) Cr.P.C. As per the allegations, a canter bearing registration No.HR-03-GA-0182 was purchased jointly by the complainant and accused No.1 Hoshiyar Singh on 16.10.1997 with the help of TATA Finance Limited and, therefore, the canter was hypothecated with the TATA Finance Company. The ownership of the vehicle was amicably settled and it was decided that the canter in question would be retained by the complainant and ₹90,000/- in instalments were paid by him to Hoshiyar Singh on 30.8.1998 and 5.9.1998 and the receipts were duly executed and signed by the accused in the presence of witnesses. It is also in the judgment that on 3.10.1999 at about 7.00 a.m., the accused came to the house of the complainant and requested him to hand over the original receipts for the payment of ₹90,000/- made by the complainant on the ground that the same were wanted by accused No.1 for showing the

source of payment as he wanted to purchase a new vehicle. The complainant handed over the receipts of ₹90,000/- to the accused, but the accused later on did not return the original receipts.

The learned Judicial Magistrate Ist Class, Panchkula, acquitted the accused on the ground that the receipts were not proved as per law though the photo copy of the receipt dated 5.9.1998 is Mark-A. From the impugned judgment dated 24.9.2009 passed by learned Judicial Magistrate Ist Class, Panchkula, it is clear that no permission for leading secondary evidence i.e. to prove photo copy of the receipt Mark-A has been taken from the Court and this receipt Mark-A has not been proved as per law. The oral evidence regarding proving the receipt without taking the permission for leading secondary evidence is of no use. Therefore, the learned Judicial Magistrate Ist Class, Panchkula, has correctly acquitted the accused-private respondents by giving the benefit of doubt. The learned Judicial Magistrate Ist Class, Panchkula, also held that a perusal of the receipts Marks-A and B creates serious doubt about their authenticity. The Court also discussed the contents of these documents. It is also stated that the receipt dated 30.8.1998 has not been signed by any independent witness and as per this receipt an amount of ₹65,000/- was received by his brother Prem Singh. It is stated that the settlement has been taken place between Hoshiyar Singh and complainant Niranjana Singh. There was no necessity for the brother of the said accused to receive the payment and execute a receipt.

The findings of the Court below are correct and as per law

[4]

and as per evidence on record. In no way, it can be held that any illegality has been committed by the Courts below nor it can be held that the judgments passed by the Courts below are perverse. Nothing has been pointed out which material evidence has been misread by the Courts below and which material evidence has not been considered. In the revision petition, this Court is not to re-appreciate the evidence like a Court of appeal.

Therefore, from the above discussion, I find that the impugned judgments passed by both the Courts below are correct and as per law, which do not require any interference from this Court and the same are upheld.

Therefore, finding no merit in the criminal revision petition, the same is dismissed.

February 2, 2015.

(Inderjit Singh)
Judge

hsp