

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

CRR-2343-2013 (O&M)

Date of Decision: September 1, 2015

Kulwant Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Karamjeet Singh Brar, Advocate for
Mr.S.P.S.Sidhu, Advocate
for the applicant-petitioner.

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1. *Whether Reporters of local papers may be allowed to see the judgment ? yes*
2. *To be referred to the Reporters or not ? yes*
3. *Whether the judgment should be reported in the Digest? yes*

Naresh Kumar Sanghi, J.(Oral)

CRM-34226-2013

There is delay of 24 days in filing the present criminal revision petition.

After hearing the learned counsel for the applicant-petitioner and going through the contents of the application, which is duly supported by an affidavit, application is allowed.

Delay of 24 days in filing the criminal revision petition is

condoned.

CRM disposed of.

CRR-2343-2013

The present criminal revision petition has been filed against the judgment, dated 14.02.2013, passed by learned Additional Sessions Judge, Moga, whereby the appeal filed by the State challenging the judgment of acquittal, dated 06.09.2011, passed by learned Chief Judicial Magistrate, Moga, was dismissed.

Learned counsel for the petitioner submits that without affording adequate opportunities to the prosecution, learned trial Court closed its (prosecution) evidence; PW3 Pritam Singh had specifically deposed that a sum of ₹6,00,000/- (Rupees six lacs only) was handed over to all the accused in his presence and that the informant, Harbhajan Singh, could not appear as a witness due to his death, therefore, the judgment of acquittal passed by both the Courts below is against the settled norms.

I have heard the learned counsel for the petitioner and with their able assistance gone through the material available on record.

Brief facts of the case are that informant-Harbhajan

Singh (since deceased) moved an application to the Senior Superintendent of Police to the effect that on 20.11.1998, Narinder Singh, Harnek Singh, Gurdev Kaur, Jaswinder Kaur and Mohinder Singh took ₹6,00,000/- (Rupees six lacs only) from him (Harbhajan Singh) and under the false pretext obtained his passport and other relevant papers for sending him to America. Neither any step was taken by Narinder Singh and his co-accused to send him (Harbhajan Singh) to America nor the amount paid by the informant (Harbhajan Singh) to the accused was returned. Whenever the informant requested for return of the amount, then Narinder Singh would threaten him to kill. The matter was enquired into and thereafter on 10.05.2000, FIR for the offences punishable under Sections 420 and 506, IPC, was registered. During investigation Jaswinder Kaur and Gurdev Kaur were granted anticipatory bail while Harnek Singh had died. Narinder Singh could not be arrested and he was declared a proclaimed offender. After completion of the investigation, report under Section 173, Cr.P.C. was presented for prosecution of Jaswinder Kaur and another.

Finding a prima facie case, the charge for the offence punishable under Section 420, IPC, was framed against the

accused persons. They pleaded not guilty and claimed trial.

In order to substantiate the allegations, the prosecution examined the following witnesses:-

“PW1-Kulwant Singh, who is elder brother of the informant.

(It is apposite to mention that after his examination-in-chief, Kulwant Singh did not appear for cross-examination.)

PW2-Krishan Gopal, Patwari;

PW3-Pritam Singh; and

PW4-Rajinder Kumar.”

Adequate opportunities were afforded to the prosecution to lead its entire evidence and when it failed to do so, then six time last opportunities were also granted so that prosecution may lead its entire evidence but when it failed to do so, then keeping in view the fact that the case pertained to the year 2000, the prosecution evidence was closed vide order dated 29.08.2011, i.e. after approximately eleven years.

Statements of Gurdev Kaur and Jaswinder Kaur, in terms of Section 313, Cr.P.C., were recorded. They denied the allegations levelled against them and stated that they had been falsely implicated in the present case.

Learned trial Court after hearing the learned counsel for the parties and going through the material available on record, acquitted the accused.

Dis-satisfied with the judgment of acquittal, State of Punjab filed an appeal before learned Additional Sessions Judge, Moga, and the same was dismissed vide judgment, dated 14.02.2013 and hence, Kulwant Singh, the elder brother of the informant-Harbhajan Singh has filed the present revision petition.

Specific question was put to the learned counsel appearing on behalf of the petitioner as to how the present criminal revision is maintainable on behalf of Kulwant Singh, then he stated he was not aware of this fact.

The material available on record has been perused and it is found that the prosecution has miserably failed to substantiate the fact that on 20.11.1998 in the area of village Kot Mohammad Khan, Jaswinder Kaur and Gurdev Kaur had committed cheating with Harbhajan Singh (since deceased) by dishonestly inducing him to pay ₹6,00,000/- (Rupees six lacs only) for sending him to America. Harbhajan Singh had not appeared in the witness box and, as such, there was no direct evidence that a sum of ₹6,00,000/- (Rupees six lacs only) was

handed over to the accused persons. The facts of the case have already been thoroughly scanned by both the Courts below and, as such, the well reasoned judgments cannot be interfered while exercising the revisional jurisdiction on the ground that second view is also possible.

Dismissed.

September 1, 2015
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(NARESH KUMAR SANGHI)
JUDGE