

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

***CRR No.2204 of 2015 (O&M)***

***Date of decision: 30.06.2015***

*Harjinder Singh & another*

*... Petitioners*

*Vs.*

*Lakhbir Singh @ Lakhwinder Singh*

*... Respondent*

***CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.***

Present: Mr. L.M. Gulati, Advocate for the petitioners.

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***TEJINDER SINGH DHINDSA, J.***

The instant revision petition is directed against the order dated 30.05.2015 passed by the learned Additional Sessions Judge, Patiala dismissing the appeal against the order dated 28.04.2014 passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Rajpura convicting and sentencing the petitioners to undergo SI for a period of one year and to pay fine of Rs.500/- each under Section 471 IPC.

2. The process of law was set in motion on the basis of a complaint lodged by Lakhbir Singh @ Lakhwinder Singh asserting that he was the owner in possession to the extent of half share in land measuring 19 bighas and 6 biswas after having purchased such parcel of land from Ajit Singh i.e. father of the petitioners vide sale deed dated 20.07.1977. It was further asserted that possession of the land had been handed over to the complainant at the time of registration of the sale deed and even mutation had been sanctioned in favour of the complainant. Complainant is stated to

have received summons from the Court of Civil Judge (Junior Division), Rajpura in a case titled “Harjinder Singh & others v. Lakhbir Singh” filed by the petitioners herein alleging themselves to be the owner of the same parcel of land that in fact had been purchased by the complainant from Ajit Singh. Complainant thereupon approached Patwari, namely, Ashok Joshi to verify the record and was shocked to learn that the khasra girdawari entries had been altered in the name of Ajit Singh i.e. father of the petitioners by Ashok Joshi Patwari in connivance with the present petitioners. FIR No.60 dated 27.11.2005 was also stated to have been registered at Police Station Ghanour but since no action was being taken by the police, hence the complaint had been filed.

3. Complainant in his preliminary evidence examined PW1 Paramjit Singh Patwari, PW2 Nirmal Singh Patwari, PW3 Kulwant Singh Ahlmad and PW4 Santokh Singh Clerk. Complainant himself stepped into the witness box as PW5 and thereafter vide order dated 01.03.2011, the present petitioners along with co-accused Ashok Joshi were summoned to face trial under Sections 167/193/196/417/464/465/466/467 and 471 IPC. After recording of pre-charge evidence before the trial Court, charges under Sections 120-B/465/466/467/471/167/193/196 IPC were framed against all the accused vide order dated 30.11.2013 to which they pleaded not guilty and claimed trial. During the course of trial, the petitioners were given opportunity to cross examine PW4 hand writing and finger print expert, namely, Dr. Inderjit Singh. Thereafter, the petitioners furnished a statement in writing that they do not wish to cross examine the remaining witnesses and the cross examination recorded in pre-charge evidence may be read as their after charge cross examination. Trial Court recorded statements of the

accused under Section 313 Cr.P.C. and all the incriminating evidence was put to them. Petitioners examined DW1, Sohan Singh and tendered documents Ex.D2 i.e. a compromise as also Ex.D1, D3 and D4 and closed defence evidence. The trial concluded in terms of conviction of the present petitioners as noticed herein above.

4. Counsel appearing for the petitioners has raised a two fold submission. It has been submitted that there was no occasion for the petitioners to have been implicated and thereafter convicted in the case as a compromise had already been effected between the parties and the complainant in this regard had admitted in his cross examination that he had sold the land to one Chaman Lal which he had got in pursuance to the compromise having been entered into with Harjinder Singh and Balwinder Singh (present petitioners). Second submission raised by the counsel is that the petitioners had no reason to believe the document Ex.P2 to be a forged khasra girdawari and as such fraudulent and dishonest intention on the part of the petitioners to prepare or to use the same as a genuine document does not arise and the conviction under Section 471 IPC cannot sustain.

5. Having heard counsel for the petitioners at length and having perused the pleadings on record, I am of the considered view that no case for interference is made out.

6. Based on evidence adduced on record, concurrent findings have been returned by both the Courts below as regards Ex.PW1/A i.e. the original khasra girdawari showing the complainant to be the owner in possession of the land in question having been duly proved. Also proved on record at Ex.P2 i.e. forged khasra girdawari in which the name of Ajit Singh i.e. father of the petitioners had been interpolated and recorded as owner at a

point of time when he had already expired. Ex.PW4/A is the copy of the plaint of suit for declaration/permanent injunction filed by the petitioners herein in which Ex.P2 i.e. the forged khasra girdawari had been relied upon for obtaining a favourable injunction from the competent Court.

7. In the light of such clinching evidence the factum of any compromise that may have been entered into between the parties would be of no consequence. That apart, the argument raised on behalf of the petitioners did not have any dishonest intention and had no reason to believe Ex.P2 to be a forged document lacks depth inasmuch as they were instrumental in having instituted the suit seeking a declaration for the same very parcel of land and such suit was founded on an entry made in the khasra girdawari i.e. Ex.P2 which reflected their deceased father to be the owner in possession. The dishonest intention is apparently discernible and a forged document had been used to advance such fraudulent and dishonest design.

8. I am of the considered view that the Courts below have returned findings on proper appreciation of evidence and the impugned judgment does not suffer from any perversity, irregularity or illegality. The sentence awarded is also commensurate with the offence committed.

9. Even otherwise the scope of interference at the revisional stage is extremely limited. The Hon'ble Apex Court in **State of Kerla v. Puttumana Illath Jathavedan Namboodiri AIR 1999 SC 981** had held that the revisional jurisdiction is a supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice but such power would neither be equated with the power of an Appellate Court nor can be on parity even as a subordinate Appellate jurisdiction. It was observed that it would not be

appropriate for the High Court to re-appreciate the evidence and come to its conclusion when the evidence had already been appreciated by the Magistrate as well as the Sessions Judge in appeal unless a glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. Likewise, the Supreme Court in **Bindeshwari Prasad Singh & others v. State of Bihar (now in Jharkhand) and another AIR 2002 SC 2907** had held that in the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction.

10. For the reasons recorded above, there is no merit in the revision petition and the same is dismissed.

**30.06.2015**

*harjeet*

**(TEJINDER SINGH DHINDSA)  
JUDGE**

Note: Whether referred to the Reporter?                      no