

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3094 of 2014 (O&M)

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Date of decision:5.2.2015

Rattan Singh

...Petitioner

v.

State of Punjab

Respondent

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. P.B.S. Goraya, Advocate for the petitioner.

Mr. Amarinder Singh Klar, Assistant Advocate General,
Punjab for the respondent-State.

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Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned judgment dated 12.9.2014 passed by learned Additional Sessions Judge, Amritsar, whereby the appeal filed by the petitioner against the impugned judgment of conviction and the order of sentence dated 23.3.2012 passed by the learned Judicial Magistrate Ist Class, Amritsar, vide which the accused/petitioner has been convicted for the offence under Section 420 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for two months, has been dismissed.

It is stated in the grounds of revision petition that the

impugned judgment dated 12.9.2014 passed by the learned Additional Sessions Judge, Amritsar, whereby appeal of the petitioner has been dismissed, is against the facts of the case and is unreasonable, illegal and the same is liable to be set aside. It is stated that both the Courts below have ignored elementary principles of criminal law while appreciating the evidence produced by the prosecution. It is stated in the revision petition that the petitioner, who is 81 years old, has been convicted for the offence under Section 420 IPC in the absence of any evidence of cheating against him. Neither there is any evidence of cheating or false promise to send the son of the complainant abroad nor there is any demand of money for this purpose by the petitioner. The petitioner has been made scapegoat being father-in-law of main accused Jasbir Singh, who is residing in Spain.

Notice of motion has been issued in this case.

Mr. A.S. Klar, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner and learned Assistant Advocate General, Punjab for the respondent-State and have gone through the record.

A perusal of the record shows that challan against the accused -petitioner has been presented before the learned Judicial Magistrate Ist Class, Amritsar for the offences under Sections 420 and 466 IPC.

The brief facts of the case are that complainant-Naranjan

Singh filed an application before Senior Superintendent of Police, Amritsar, stating that accused Jasbir Singh used to live in Spain and belongs to Village Jethuwal and approximately four and half years back, he came to their house and asked Dayal Singh, his relative that if any one is interested to go to Spain, then talk with him. On that, his relative Dayal Singh, sent a message in his home and called them. He and his son Sukhwinder Singh along with Dayal Singh, went to the house of Jasbir Singh. At that time, Rattan Singh, father-in-law of Jasbir Singh was present at home, who was known to him very well as he also belongs to District Gurdaspur. During talk, Jasbir Singh demanded ₹4.50 Lacs for sending his son to Spain. They agreed on the assurance of accused person to send his son Sukhwinder Singh within six months to Spain. He arranged money after selling his land on lower rates than market rate and he gave ₹4.50 Lacs in the presence of his relative Dayal Singh to accused Rattan Singh as per demand of his son-in-law Jasbir Singh. Thereafter, accused Jasbir Singh went to Spain. After passing of one year accused sent the documents of Visa of his son. Thereafter, they reached to Embassy after taking said documents of Visa, the Embassy considered the said documents as forged. When they inquired this fact from Rattan Singh, he did not agree to admit the same as fabricated documents. On being insisted by them time and again, Rattan Singh agreed to return the said amount along with their expenses. When they demanded their amount, Rattan Singh dilly-dallying the matter on one pretext or other. He finally threatened to kill them. When the matter was intervened by the

respectable persons of the Village, then Rattan Singh returned ₹1,80,000/- and further agreed to return remaining amount of ₹3,05,000/- on 1.2.2008 and 25.3.2008, but the amount had not been returned.

The learned Judicial Magistrate Ist Class, Amritsar framed charges for the offence under Sections 420 and 466 IPC. The prosecution examined Naranjan Singh as PW-1, eye witness Dayal Singh as PW-2, Investigating Officer ASI Jagir Singh as PW-3, HC Nishan Singh recovery witness as PW-4, Lakhbir Singh as PW-5 and closed its evidence.

Statement of the accused under Section 313 Cr.P.C. was recorded. The accused/present petitioner stated that his son-in-law Jasbir Singh, who is living in Spain, had never come to India on 12.2.2014 or even thereafter, he and Jasbir Singh never received any alleged amount of ₹4,50,000/- on 12.2.2004. He is retired Government employee and aged person of 75 years. The complainant and his accomplices under Police pressure took his hard earned money of ₹1,80,000/-. He reserved his right to get back the same. He never agreed to pay ₹3,05,000/-.

After hearing learned counsel for the parties and going through the record, the learned Judicial Magistrate Ist Class vide judgment and order dated 23.3.2012 acquitted the accused/petitioner for the offence under Section 466 IPC, but convicted him for the offence under Section 420 IPC and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment for two months.

Aggrieved against the impugned judgment and the order, the accused-petitioner filed an appeal before the learned Additional Sessions Judge, Amritsar, who vide impugned judgment dated 12.9.2014 dismissed the appeal. Aggrieved against the impugned judgment, the present revision petition has been filed.

After hearing the learned counsel for the petitioner as well as learned Assistant Advocate General, Punjab, I find that the impugned judgments passed by the Courts below are not as per evidence on record. A perusal of the evidence on record shows that the promise was made to send the son of the complainant to Spain by Jasbir Singh, who had been declared proclaimed offender in this case. There is no allegation that the present petitioner Rattan Singh, who is father-in-law of Jasbir Singh, had made any promise or at any stage had stated that the son of the complainant will be sent to Spain. Naranjan Singh-complainant had appeared in the Court and had specifically stated that Jasbir Singh demanded ₹4.50 Lacs from him to send his son to Spain. He also stated that in the presence of Dayal Singh and in the house of Jasbir Singh he gave ₹4.50 Lacs and passport to Jasbir Singh, who further handed over the money to Rattan Singh. At the most, this statement can be taken as the money was given to Rattan Singh for counting by Jasbir Singh. In no way, this evidence shows that Rattan Singh, at any stage, induced the complainant to send his son to Spain. The talk had taken place in the house of Jasbir Singh. The inducement was made by Jasbir Singh. The money was paid to Jasbir Singh in his house. Again as per his statement,

Rattan Singh had not forged documents. Rather, as per the FIR, the complainant told Rattan Singh that forged documents had been sent, but he refused to admit. The documents were sent from Spain by Jasbir Singh. A perusal of evidence on record shows that the present petitioner has no role in this occurrence. The deal was between the complainant and Jasbir Singh.

From the evidence on record, it is clear that the agreement which was got executed from Rattan Singh for payment of money etc., had been effected in the Police Station. Already ₹1,80,000/- had been paid by the present petitioner as stated by him under pressure to the complainant.

Keeping in view the evidence on record produced by the parties, I find that the present petitioner has no role in the occurrence. He has been simply involved in this case only on the ground that he is father-in-law of Jasbir Singh and residing here in India as Jasbir Singh could not be found in India as he is residing in Spain. The evidence of the prosecution has not been appreciated in the right perspective as per law.

Therefrom, from the above, I find that the findings of both the Courts below are incorrect against evidence and are not as per law, which are set aside. Therefore, this criminal revision petition is allowed and the petitioner is acquitted of the charges as framed against him.

February 5, 2015.

(Inderjit Singh)
Judge

hsp