

In the High Court of Punjab and Haryana at Chandigarh

1. Crl. Revision No. 363 of 2015
Date of decision: 25.8.2015

Ishwar DyalPetitioner

Versus

State of HaryanaRespondent

2. Crl. Revision No. 783 of 2015

Ram LalPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. G.S.Sandhu, Advocate
for the petitioners.

Ms. Mahima, AAG, Haryana.

SABINA, J.

Vide this order, above mentioned two petitions would be disposed of as they have arisen out of the same FIR.

Petitioners had faced the trial qua commission of offence punishable under Section 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 23 dated 17.5.2002, registered at Police Station S.V.B. Rohtak. Trial Court vide judgment/order dated 24.8.2011/26.8.2011 ordered the conviction and sentence of the petitioners under Section 420 read with

Section 34. However, petitioners were ordered to be acquitted of the charges framed against them under Section 467, 468, 471 IPC. Aggrieved against the said judgment/order of their conviction and sentence, petitioners preferred separate appeals and the same were dismissed by the Appellate Court vide order dated 06.1.2015. Hence, the present petitions by the petitioners.

Learned counsel for the petitioners has submitted that the Courts below had erred in ordering the conviction and sentence of the petitioners. In fact, the meter in question had been installed in the premises of Om Parkash and the Courts below had erred in presuming that the said meter had been installed in the house of petitioner Ishwar Dayal. Therefore, petitioner Ishwar Dayal had not committed the offence of cheating as he was not required to disclose about the installation of meter No. 528092 at the time of moving an application seeking electricity connection as he had no concern with the said meter.

Learned State counsel, on the other hand, has opposed the petitions.

In the present case, prosecution story, in brief, is that Ishwar Dayal-petitioner took residential electricity connection bearing No. M-749 and later it was changed to UM-14-2595. Petitioner Ishwar Dayal had not made the payment of electricity bills and in connivance with his co-accused, he succeeded in getting the electricity bills waived off. Thereafter, petitioner Ishwar Dayal got new electricity connection in the year 1995 which could not be released to him due to pendency of electricity bills qua his earlier connection. The Courts below have ordered the conviction and sentence of the petitioners qua commission of offence

punishable under Section 420/34 IPC.

During the course of arguments, learned counsel for the petitioners has placed reliance on the statement of PW-8 Hardeep Singh. A perusal of the cross-examination of the said witness reveals that he had deposed that as per the record at Serial No. 4741, entry qua meter No. 528092 had been made in the name of Om Parkash. Account No. UM-14/0500 was shown as D/stop and the meter was changed on 3.10.1996. Thus, from the cross-examination of PW-8, it was evident that the meter No. 528092 had not been issued in the name of petitioner Ishwar Dayal but had rather been installed in the premises of Om Parkash. Therefore, petitioner Ishwar Dayal was not required to make a mention qua the said meter number at the time of an application of electricity connection in the year 1995. Hence, the petitioners were liable to be acquitted of the charges framed against them.

Accordingly, both the petitions are allowed. Impugned judgments/orders passed by the Courts below are set aside. Consequently, petitioners are ordered to be acquitted. Petitioners, who are in custody, be set at liberty forthwith, if not required in any other case.

(SABINA)
JUDGE

August 25, 2015
Gurpreet