

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4228 of 2014 (O&M)
Date of decision: February 16, 2015

Padam Nabh Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Krishan Singh Dadwal, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner Padam Nabh Singh has filed this revision petition under Section 401 Cr.P.C. against State of Punjab respondent challenging the judgment dated 08.12.2014 passed by learned Addl. Sessions Judge, Hoshiarpur.

It is stated in the grounds of revision that the Court below while ordering the conviction and sentence of the petitioner, have failed to scan and scrutinize the documents as well as judgments of the judicial Courts including the judgments of this Court from where it is apparent that the FIR on the basis of which conviction has been recorded, cannot be sustained.

It is further stated that petitioner was serving as Teacher and now retired from the service and belongs to Scheduled Caste community. Due to the party faction, he has been made the victim as the petitioner purchased land measuring 78 kanals 15 marlas from the

provincial Government and the sale certificate to this effect was issued by the Collector, Hoshiarpur in favour of the petitioner on 27.02.1984. The inferior evacuee land was purchased by the petitioner in pursuance of the policy letter dated 10.07.1979.

It is further stated that a case FIR No.140 dated 14.12.1991 was registered against the petitioner on the ground that he along with other Government officials in conspiracy with each other had tampered with the Government record of Deputy Commissioner's office and prepared a bogus sale certificate of inferior evacuee land of the provincial Government measuring 78 kanals 15 marlas. It is also stated that while the proceedings were taken out, the petitioner filed civil suit for declaration to the effect that he was rightful owner of the land in question and in pursuance of the policy he has purchased the property regarding which all the formalities have been completed. The said suit was decreed in favour of the petitioner vide judgment and decree dated 30.11.1993. In the said judgment, learned Senior Sub Judge, Hoshiarpur came to the conclusion that sale certificate dated 27.02.1984 was issued by the competent authority and no appeal was filed against the judgment and the said judgment acquired finality. However, despite the finding of the civil Court, the investigation in the aforesaid case remained under process and a report under Section 173 Cr.P.C. was filed. Learned Chief Judicial Magistrate, Hoshiarpur vide order dated 02.12.1993, discharged the petitioner from the offence, against which revision was filed by the State and learned Sessions Judge vide order dated 06.03.1995, set

aside the order passed by learned CJM and remanded the case to the trial Court for fresh decision.

It is further stated that against the order passed by learned Sessions Judge, the petitioner filed revision petition before this Court and this Court was pleased to dispose of the revision petition with the direction to learned Sessions Judge to decide the revision petition afresh after taking note of the judgment dated 30.11.1993 as the same has acquired finality. After the order passed by this Court, learned Sessions Judge again passed an order dated 24.09.1999 and set aside the order dated 02.12.1993 passed by learned CJM, Hoshiarpur against which the petitioner filed revision before this Court along with father co-accused, who has since expired.

It is also stated that revision petition came up for hearing and this Court was pleased to accept the revision petition and set aside the order dated 24.09.1999 and maintained the order of discharge. It is also stated in the grounds of revision that petitioner was again involved in FIR No.165 dated 16.07.2004 under Sections 420, 466, 467, 468 and 471 IPC on the allegations that petitioner had forged the judgment and decree dated 30.11.1993 alleged to have been passed by Senior Sub Judge, Hoshiarpur in Civil Suit No.539 of 1991 filed on 24.12.1991. It is stated in the petition that the said judgment has acquired finality. Since the FIR was got recorded by Sh.Vivek Puri, the then Civil Judge (Senior Division), Hoshiarpur after writing a letter dated 29.11.2000, therefore, the trial proceeded on the aforementioned allegations and ultimately vide judgment dated

19.03.2009, learned CJM, Hoshiarpur acquitted the petitioner from the charges framed against him. Against that judgment of acquittal, State of Punjab filed criminal appeal and learned Addl. Sessions Judge, Hoshiarpur, vide its judgment dated 09.04.2010, set aside the judgment of acquittal and remitted the case back to the trial Court with further direction to hold enquiry and to decide the case afresh. Thereafter, learned CJM, Hoshiarpur vide judgment of conviction and order of sentence dated 13.09.2010, convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹3000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of one month under Section 465 IPC and he was further directed to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹3000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of one month under Sections 467 and 471 IPC on each count. Against this judgment, an appeal was filed and learned Addl. Sessions Judge, Hoshiarpur dismissed the appeal vide impugned judgment dated 08.12.2014.

Learned counsel for the petitioner argued as per the grounds of revision and stated the decree dated 30.11.1993 passed in civil suit No.539 of 1991 is correct one and as per law. He also argued that this decree has been upheld by this Court in another proceeding. Learned counsel for the petitioner also argued that there is no evidence led by the prosecution to prove its case.

I have heard counsel for the petitioner and have gone

through the record including the record of learned lower Court.

First of all, this is a revision petition and in the revision petition, this Court is to see whether any illegality has been committed by the Courts below or the judgments passed by the Courts below are perverse or any material evidence has been misread or some material evidence has not been considered by the Courts below. This Court, in the revision petition, is not to re-appreciate the evidence like Court of an appeal.

From the perusal of the evidence on record, I find that it is on the record that the last entry in the Ahlmed register is of 24.12.1991 having serial number 530. After that, there was no other entry in the Register. Otherwise also, the Courts below have taken note of this fact that the Courts remain closed for winter holidays from 25th December till the last date of that year. So, last entry of serial number 530 on 24th December, 1991 shows that no other suit can be filed after 24th December. The present petitioner has nowhere taken the plea or shown any document that on which date the civil suit was filed. Similarly, the judgment dated 30.11.1993, which is in favour of the present petitioner, nowhere shows the date of its institution. The prosecution is only to prove from the record that no such suit has been filed as there is no registration of any suit nor there is anything on record. Only the evidence is to be led by the prosecution that no such suit has been filed and decided by the Courts regarding which there is report of the then Senior Sub Judge, Hoshiarpur, who filed the report on the basis of the report of the Ahlmed etc. In other

proceedings, this fact was not in dispute that judgment and decree in question are forged one. The Court by simply relying upon that judgment, passed the orders by saying that it has attained the finality. Nobody at that time has contested this fact that the judgment dated 30.11.1993 is a forged judgment and no Court has passed this judgment nor any suit has been filed in which this judgment has been passed. Both the Courts below has reached to the correct conclusion that to show the existence of this judgment, the accused could have produced any evidence to create doubt in the prosecution version by producing the Advocate as a witness, who filed the suit and pursued the case. The petitioner could have produced the brief of the Advocate. The petitioner could have shown any document that this suit was filed before the Court.

In view of the above discussion, I find that the concurrent findings given by the Courts below are correct, as per law and do not require any interference from this Court. No illegality has been found in the impugned judgments and order passed by the Courts below nor these judgments and order can be held as perverse. In no way, it can be held that it is a case of no evidence. The Courts below have not misread any evidence produced before it.

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

February 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE