

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

**CRM No.M-1827 of 2012(O&M)**  
**Date of Decision: January 27, 2016**

M/s Tata Steel Ltd.

...Petitioner

**VERSUS**

M/s Ajit Cotton Ginning Pressing Dal and Steel Roll Mills and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Deepak Sabharwal, Advocate  
for the petitioner.

Mr.Vikas Mohan Gupta, Advocate  
for the respondents.

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**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of judgment dated 29.05.2008 passed by learned Judicial Magistrate Ist Class, Jalandhar whereby accused-respondents have been discharged and the judgment dated 07.07.2011 passed by learned Addl. Sessions Judge, Jalandhar, whereby the revision filed by the petitioner was dismissed.

Notice of motion was issued in this case and learned counsel for respondents appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

The brief facts of the case are that M/s Tata Iron & Steel

Company Limited filed a complaint against accused M/s Ajit Singh Cotton Ginning Pressing Dal and Steel Rolling Mills, Sohan Lal and Jagdish Rai Bansal under Section 409 IPC. It is mainly stated in the complaint that complainant had entered into an agreement with the accused for conversion of steel billets etc. into Tiscon bars and accused were to be paid only the conversion charges, whereas the ownership of steel billets as well as converted material at the relevant time was to remain vested in the complainant firm. It is further stated that agreement had been entered into on 27.12.1998 and the same was being renewed/extended from time to time till 31.03.1996. It is alleged that converted material was to be supplied by the accused to the customers of the complainant against the written orders to be issued by Jalandhar office of the complainant company. On the supply of the material to the customers of the complainant company, the accused were to furnish the requisite documents to its Jalandhar office showing the delivery of the material. It is further alleged in the complaint that the accused had not supplied the total quantity of material ordered to be supplied and have been submitting false documents in this behalf to complainant company. It is also alleged that after excluding the transaction regarding which separate complaints have been filed against the accused, the accused were left with material weighing 367.278 metric tonne belonging to the complainant as the trust property in the hands of the accused which was valued at ₹59,80,463/-. When the complainant company came to know that the accused had not been supplying full material to their

customer, Ranjit Thakur, Deputy Manager, Jalandhar Office, was deputed to visit the premises of the accused to take charge of the material lying with the accused but on his visit, he found that the material belonging to the complainant company valued at ₹60 lacs had been pledged by the accused with the Central Bank of India, Mandi Gobindgarh for availing the loan facility. Since the accused had no right to hypothecate/pledge the goods belonging to the complainant company but accused by doing so, had committed a criminal breach of trust in respect of material weighing 367.278 MT resulting into commission of offence under Section 409 IPC.

In pre-charge evidence, complainant examined CW-1 Parveen Kakkar, CW-2 Jagtar Singh, CTO, Central Bank of India, Mandi Gobindgarh and CW-3 Mukesh Kapoor.

Learned JMJC, Jalandhar, after discussing the law held that in order to constitute criminal breach of trust, there must be entrustment and subsequent dishonest misappropriation. The allegations levelled by the complainant are that steel bars have been entrusted to the complainant and the accused have misappropriated the same. Learned Magistrate held that no record has been produced by the complainant on the file to prove that steel bars weighing 367.278 MT were supplied to the accused. Complainant Parveen Kakkar has appeared on behalf of the complainant company and in his cross-examination, he stated that he cannot tell the details of the material supplied to the accused. He has further stated that every time whenever material is given to conversion agents, the documents, in

the shape of transfer, are prepared. The complainant company maintained stock record inward and outward. The complainant has placed on file document Ex.P3 i.e. statement of material receipt and dispatch during the period of April 1997 to December 1998. The Court below held that this is a photocopy and original record from which it has been prepared, has not been produced. Learned Magistrate after discussing the evidence held that CW-1 Parveen Kakkar has also stated that he has not verified the documents before making a statement and explanation given by him is that the original record is not available. Learned Magistrate has correctly held that the complainant has failed to prove, that 367.278 MT of steel bars were entrusted to the accused, by leading evidence as per law. The complainant has further urged that detail of raw material has been mentioned in Ex.P4 and Ex.P5 but the accused has hypothecated this material with Central Bank of India, Mandi Gobindgarh and raised a loan of ₹59,80,463/- from the Bank.

CW-2 Jagtar Singh CTO, Central Bank of India has proved on the file letter of the bank Ex.CW2/A showing that the limit has been obtained by the accused. This witness was asked to bring the details of the loan but when he again came present in the Court, he produced the letter written by Senior Manager of Bank Ex.PW2/B that the record with regard to detail of hypothecation is not with the bank and the same is lying in the DRT. Learned Magistrate held that no official of DRT has been examined to prove that the material of the complainant company has been hypothecated by the accused in order to raise

limit. CW-3 Mukesh Kapoor, proved the documents Ex.P3 to Ex.P5 and in his cross-examination, he stated that he has no knowledge whether these documents were sent by the accused or not. He also stated that these documents do not bear the signatures of any of the accused. CW-1 Parveen Kakkar also admitted that documents Ex.P3 to Ex.P5 are not signed by any representative of the company or by the accused.

The Court below after discussing the evidence held that CW-1 Parveen Kakkar has not brought any minutes book or any resolution passed by the company authorizing Parsanjit Guha to file and prosecute any proceedings. The complaint was filed by Parsanjit Guha but he was not authorized to file the complaint. No resolution was passed by the complainant company authorizing him to depose on behalf of the complainant company. CW-1 Parveen Kumar also stated in his cross-examination that before deposing in the court, he has not verified the veracity and authenticity of the documents exhibited in his examination-in-chief by verifying the same from the record of the company. He also stated that documents exhibited by him were neither prepared in his presence nor he has prepared the same.

Learned Magistrate held that no witness has been examined by the complainant, who can say that documents Ex.P1 to Ex.P9 are correct and have been prepared from original documents. Therefore, after discussing the evidence in minute detail, learned JMJC, Jalandhar vide impugned judgment dated 29.05.2008,

discharged the accused.

A revision was filed by the petitioner before learned Sessions Court and learned Addl. Sessions Judge, Jalandhar, vide impugned judgment dated 07.07.2011, dismissed the revision petition.

Aggrieved from the above-said judgments, present petition has been filed.

The perusal of the impugned judgments passed by the Courts below show that the findings have been given as per evidence and law. In no way, these judgments can be held as perverse or against the evidence and law. Nothing has been argued as to how the judgments passed by the Courts below are perverse. Nothing has been pointed out as to which material evidence has not been considered or which material evidence has been misread by the Courts below. Learned Courts below have given the findings after appreciating the evidence in right perspective.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per law and do not require any interference from this Court and the same are upheld.

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

**January 27, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**