

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-1828 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.

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 Sections 409, 465, 467, 468 and 471 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 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 under the said agreement, the complainant company directed the accused to supply 99 metric tonnes of Tiscon Bars to Northern Railway, Tuglakabad. After receiving the order, the accused intimated complainant company that total material has been supplied to the said customers but administration of Northern Railways wrote to the complainant company that the accused had supplied only 56.310 MT against total supply of 99 MT. On receipt of this information, the matter was taken up by the complainant with the accused to supply the aforesaid material, but despite repeated requests, the said material was not

delivered to Northern Railway. It is further alleged that material belonging to the complainant company was lying by way of trust with the accused but they by not supplying the material to Northern Railways had committed an offence of criminal misappropriation in respect of said material. Since the accused had supplied false documents regarding the delivery of the entire material, they have also committed offence under Sections 465, 467 and 468 IPC.

In pre-charge evidence, complainant examined PW-1 Parveen Kakkar, PW-2 V.D.Aggarwal, Senior Section Engineer, PW-3 Om Parkash Meena, Assistant Material Manager and PW-4 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 99 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 detail 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 documents 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 PW-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 99 MT of steel bars were entrusted to the accused by leading evidence as per law.

Learned Magistrate further from the evidence held that the complainant's case is that vide delivery vouchers Ex.P4 to P8, the accused have wrongly shown the delivery of 99 metric tonnes of steel bars to Northern Railway whereas only 41.070 MT was supplied. Senior Depot Store Keeper, Northern Railway wrote a letter with regard to supply of material Ex.PW3/A to complainant and Ex.PW3/B to the accused demanding the balance supply and Mohd. Saghiruddin has written a letter to the accused Ex.P9 for non-supply of goods. The complainant's version is that the accused have prepared false documents Ex.P4 to Ex.P8 and have committed forgery. The Court further held that Ex.P4 to Ex.P8 have been produced by the complainant in the statement of PW-1 Parveen Kakkar and also in the statement of PW-4 Mukesh Kapoor, Finance Manager of the complainant company. PW-1 Parveen Kumar in his cross-examination has stated that all the documents which have been exhibited in his

examination-in-chief, are not original documents and were neither prepared in his presence nor were prepared by him. 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. PW-4 Mukesh Kapoor, when cross-examined stated that documents Ex.P4 to Ex.P8 do not bear signatures of anybody on behalf of the complainant company. He further stated that he cannot deny that these documents do not bear the signatures of any of the accused. He also stated that he does not know from where these documents have come into picture. PW-4 Mukesh Kapoor further stated that he cannot deny that these documents Ex.P4 to Ex.P8 were never sent by the accused to the complainant company. Learned Magistrate held that there is no evidence on the file to prove whether the documents Ex.P4 to Ex.P8 have been received from the accused by the complainant company and therefore, no offence of forgery is made out from the evidence.

The Court below after discussing the evidence held that PW-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. PW-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 or he has prepared the same.

Learned Magistrate held that no witness has been examined by the complainant, who has seen the original documents and verified the same. No witness has been examined, 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 shows 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