

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

CRM M-21383 of 2013

Date of decision : 07.01.2016

Mohinder Singh

....Petitioner

v/s

State of Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. SPS Sidhu, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G. Punjab.

Mr. Karan Bhardwaj, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioner is aggrieved against order dated 15.04.2013 passed by Additional Sessions Judge, Ludhiana upholding order dated 22.11.2012 passed by Judicial Magistrate Ist Class, Ludhiana whereby application of the petitioner under section 239 read with section 300 Cr.P.C. has been dismissed.

Learned counsel for the petitioner has vehemently argued that trial court has committed a grave error while dismissing the application of the petitioner. He submits that section 300 Cr.P.C. bars second trial for the same offence. According to him, petitioner has already faced the trial and was ultimately acquitted. Thus, impugned orders are liable to be set-aside.

Plea has been opposed by learned counsel appearing for respondent no. 2. He submits that charges have already been framed in this case against the petitioner. Thus, trial court and revisional court have rightly dismissed the said application.

I have heard learned counsel for the parties.

It appears that complainant registered an FIR No. 150 dated 03.07.2003 under sections 420, 467, 468, 471 & 120-B IPC at police station Divison No. 4, Jalandhar on the ground that he had advanced a loan to petitioner and with a view to defraud him, sold the property of his father. Petitioner faced the trial in the said case and was ultimately acquitted by the trail court vide order dated 24.12.2010. Complainant filed a civil suit for recovery of the loan amount in question and the said suit was decreed in favour of the complainant. In the civil court at Ludhiana, petitioner produced two documents one agreement dated 05.05.1997 and an other affidavit dated 03.03.1998. However, said documents were found to be forged and fabricated. Resultantly, respondent no. 2 instituted a complaint in this regard. On the basis of same, FIR No. 276 dated 14.10.2008 was registered against the petitioner and one Tarlochan Singh. Petitioner moved an application under section 239/300 Cr.P.C. before the trail court on the ground that he cannot be asked to face trial for the second time on the same set of allegations. Trial court, however, considered the plea of the petitioner and dismissed the same on 22.11.2012. Order of the trial court was unsuccessfully challenged before the revisional court. It observed that the accused-petitioner had set up two forged documents Ex. D1 & Ex. D2 in the civil suit. Same had been decided up to Hon'ble Apex court. Present FIR is regarding forgery of documents Ex. D1 & Ex. D2, which were placed on record. This was not subject matter of investigation in the earlier FIR. I find no legal infirmity with the orders passed by the courts below. In my considered view the court has to consider whether a prima facie case is made out on the basis

of evidence led before it. There is no scope for interference in inherent jurisdiction of this court. Dismissed.

January 07, 2016

Ajay

(RAJAN GUPTA)
JUDGE