

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-20650 of 2016

Date of Decision: 04.07.2016

Beant Singh

...Petitioner(s)

Versus

Rajender Chakarwati & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Abhinav Kalia, Advocate
for the petitioner.

HARI PAL VERMA, J.

Petitioner has filed the present petition under Section 482 Cr.P.C. challenging the order dated 6.3.2013 (Annexure P-3) passed by Judicial Magistrate Ist Class, Ellenabad, whereby the complaint filed by the petitioner under Sections 218, 468, 471, 409, 420, 120-B IPC, Police Station Rania was dismissed and the revision petition filed against the order dated 6.3.2013 was also dismissed by learned Additional Sessions Judge, Sirsa vide order dated 13.7.2015 (Annexure P-4).

Briefly stated, the petitioner-complainant filed a criminal complaint in the Court of Judicial Magistrate Ist Class, Ellenabad with the

averments that he possessed 18 acres of agricultural land. Respondent no.2 is the sole proprietor of M/s Pinky Chakarwati Trading Company, Anaj Mandi, Rania, which firm is running the business of commission agent. Respondent no.1 is the husband of respondent no.2. The petitioner-complainant used to sell agricultural produce through the said firm. On 11.4.2008, the petitioner brought his 200 quintal wheat for sale at the firm of respondents no.1 and 2. The said wheat was purchased by DFSC, Rania at the rate of Rs.1,000/- per quintal and accordingly, entry was made by respondent no.3 in his auction register. Respondent no.3 is the auction record keeper. After weighing the crop, the petitioner demanded payment of the same, whereupon respondent no.1 told the petitioner that payment would be made to him after receiving the same from the office of DFSC. After 4-5 days, the petitioner again demanded his payment, however, respondent no.1 did not make the payment on the pretext that the payment has still not been received from the office of DFSC. Petitioner kept on demanding the payment but the respondents-accused kept on postponing the matter on one pretext or the other. Finally, the petitioner moved a complaint to Superintendent of Police, Sirsa on 24.7.2008, whereupon, respondent no.1 assured the petitioner that he will make the payment within 4-5 days. But even after 4-5 days of the commitment, respondent no.1 did not make the payment. In order to resolve the matter, a Panchayat was convened in Village Rania on 9.8.2008, but respondent no.1 flatly refused to make any payment. Respondent no.4 in collusion with other accused has got removed the name of the petitioner from the record of Market Committee. The petitioner sought information under Right to Information

Act and came to know that respondents no.1 to 4 in collusion with each other have got incorporated the name of other person instead of the petitioner in the record of Market Committee by doing over-writing in order to cause wrongful loss to the petitioner and give wrongful gain to respondents no.1 and 2. In this way, the respondents-accused have committed offences under Sections 218, 468, 471, 409, 420, 120-B IPC.

Learned trial Court after hearing counsel for the petitioner and perusing the case file as well as the investigation report dated 15.8.2011 submitted by the police under Section 202 CrPC dismissed the complaint, vide order dated 6.3.2013 (Annexure P-3), as the petitioner failed to satisfy the trial Court that the wheat was ever delivered to the respondents-accused.

The petitioner preferred a revision petition against the aforesaid order dated 6.3.2013 (Annexure P-3), however, the same was dismissed by learned Additional Sessions Judge, Sirsa vide judgment dated 13.7.2015 (Annexure P-4).

Still aggrieved, the petitioner has filed the instant petition challenging the orders passed by the Courts below.

Learned counsel for the petitioner has argued that the preliminary evidence produced by the petitioner consisted the statement of CW-1, the petitioner-complainant himself and the documentary evidence Ex.C1 to Ex.C7 copies of jambandi for the year 2006-07, Ex.C8 to Ex.C-12 copies of khasra girdawri, Ex.C-13 to Ex.C-15 copies of auction register and Ex.C-16 copy of information under RTI dated 19.9.2008. Learned counsel further argued that the petitioner also produced the Auction

Register Ex.P1 and FSL report Ex.P2 and also examined CW-2 Raj Singh, CW-3 Sardara Singh and CW-4 Harwinder Singh. However, the learned Courts below have failed to appreciate the documentary evidence as well as the report of the Forensic Science Laboratory, Madhuban, Karnal, wherein it has been stated that the existing hand writing is not the original writing. Once there is over-writing in the register, the guilt of the respondents-accused is apparent. But the learned trial Court has ignored the evidence on record as well as the version of the petitioner-complainant and dismissed the complaint and thereby caused grave injustice to the petitioner.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner has primarily relied upon Auction Register (Ex.P1) of the Market Committee and has submitted that there is over-writing in the same, as the name of Birsha Singh was inserted by way of over-writing over the name of the petitioner-Beant Singh. It being a private complaint, learned trial Court sought report under Section 202 CrPC from the police, whereupon it was reported that the allegations of the petitioner regarding sale of wheat in question to DFSC Rania through the respondents-accused were not substantiated, as the petitioner failed to establish the following five steps involved in the sale in the Grain Market:-

- “(1) A gate pass is issued.*
- (2) Thereafter, entry in the register of the commission agent in which the name of the owner of crop is to be written.*
- (3) Simultaneous entry in the register of the department who purchased the produce.*

(4) *Thereafter, entry regarding sale in one register of the Market Committee.*

(5) *Thereafter, 'J' form is issued to the owner of the crop."*

Since the petitioner has failed to establish any of the aforesaid five steps in support of his case and has also failed to establish that he sold any wheat crop through the commission agency of respondents no.1 and 2, this Court has no hesitation to hold that the complaint in question has rightly been dismissed. No documentary evidence has been produced in support of the contention raised by learned counsel for the petitioner. Merely because there is some over-writing in the auction register, does not prove the guilt of the respondents no.1 and 2.

In this view of the matter, this Court do not find any merit in the instant petition and the same is hereby dismissed.

July 04, 2016
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(HARI PAL VERMA)
JUDGE