

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

CRM No.M-23276 of 2016 (O&M)

Date of Decision: August 08, 2016

Rohtash and another

...Petitioners

VERSUS

Krishan Lal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Narender Kaajla, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of judgment dated 16.05.2016 whereby learned Addl. Sessions Judge, Hisar allowed the criminal revision filed by the respondent-complainant against the order dated 05.08.2013 passed by learned Judicial Magistrate Ist Class, Hisar, in complaint case No.1036-I of 2007 under Sections 420, 468, 471 and 120-B IPC, whereby the petitioners were ordered to be discharged.

Learned counsel for the petitioners argued that the petitioners are only the witnesses on the form in which wrong information was given by the main accused Joginder. He also argued that there is no prima facie case for framing of the charge against the present petitioner.

After hearing learned counsel for the petitioner and after going

through the record, I find that learned JMJC, Hisar, vide order dated

05.08.2013 discharged the accused including the petitioners and did not frame the charges by mainly holding that no case against the accused has been made out which, if unrebutted, would warrant their conviction. A revision petition was filed by the complainant and the learned Addl. Sessions Judge, Hisar, after discussing the evidence on record and after hearing the learned counsel for the parties allowed that revision petition and set aside the aforesaid order dated 05.08.2013 and directed the parties to appear before the learned trial Court for further proceedings, vide judgment dated 16.05.2016.

As per the facts of the case, accused Joginder was arrested in case FIR No.865 dated 05.10.2006, registered at Police Station Sadar Hisar, under Section 326 IPC. He has submitted four forms and out of these forms, two forms (Ex.P6 and Ex.P7) bear his own photographs. In column No.13 of the form Ex.P7, accused Joginder mentioned falsely and fraudulently that he has not ever been arrested. Similarly in form (Ex.P6), initially it was mentioned by him that he has not been ever arrested but later on when he got the chance, he mentioned that he was arrested for committing forgery. The signatures were duly admitted by Joginder under Section 294 Cr.P.C. when he was asked to admit or deny the signatures. It is also the case that page Nos.1 to 3 of Ex.P7 are also changed. The allegations against the present petitioners are that they being Sarpanch and Lambardar, verified and certified the contents of the form as correct.

It is settled law that at the time of framing of charge even in complaint case, the Court is only to see whether the prima facie case is made out or not. Now, this has been settled by the Supreme Court that even

evidence remains unrebutted, it will lead to conviction or not. At the time of framing of charge, the Court is not to weigh the evidence for the purpose of conviction and only prima facie case is to be seen.

I have seen the documents on record. The present petitioners have certified the contents of the information given by the candidate as true to best of their knowledge. At this stage, prima facie case is made out and learned Addl. Sessions Judge, Hisar has correctly allowed the revision petition and set aside the order dated 05.08.2013. No illegality has been committed by learned Addl. Sessions Judge, Hisar. In no way, the passing of impugned judgment dated 16.05.2016 can be held as abuse of process of law or amounting to miscarriage of justice. The quashing petition filed by main accused Joginder has also been dismissed by this Court in separate proceedings.

In view of the above discussion, I find that the impugned judgment dated 16.05.2016 passed by learned Addl. Sessions Judge, Hisar, is correct, as per law and does not require any interference from this Court.

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

August 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No