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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-4895 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 260 metric tonnes of Tiscon Bars to BBMB, Nangal Township. After receiving the order, the accused intimated complainant company that total material has been supplied to the said customers but administration of BBMB wrote to the complainant company that the accused had supplied only 235.250 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

BBMB. 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 BBMB 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 471 IPC.

In pre-charge evidence, complainant examined CW-1 Parveen Kakkar, CW-2 Raj Kumar, Store Keeper, BBMB 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 Tiscon bars weighing 260 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 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 260 MT of Tiscon bars were entrusted to the accused by leading evidence as per law.

Learned Magistrate further held that it is the case of the complainant that between 31.07.1995 to 01.09.1995, accused company sent the delivery challans Ex.C7 to Ex.C9 showing the delivery of the material but their customers BBMB has reported that no material was supplied qua these challans. The complainant examined CW-1 Parveen Kakkar and CW-3 Mukesh Kakkar. CW-1 Parveen Kakkar, in his cross-examination, has categorically stated that all the documents which have been exhibited by him in his examination-in-chief are not the original. He has further stated that documents are neither in his hand or bear his signatures. He also stated that whenever the material is supplied to the conversion agent, entry is made in the stock register. He further stated that he does not have the conversion account of the accused company and also not in possession of the stock register. He also stated that in order to check the veracity of Ex.C4, he has not consulted the account books of the company. CW-3 Mukesh Kapoor in his cross-examination has

categorically stated that he has no knowledge as to whether documents referred by him in his examination-in-chief were sent by the accused to the complainant company or not. He stated that he cannot deny that the documents Ex.C7 to Ex.C9 and Ex.CW2/29 were not sent by the accused to the complainant. He further stated that Ex.C8 and Ex.C9 nowhere bear the signatures of the complainant company. He also stated he cannot deny that these documents do not bear the signatures of the accused. CW-3 Mukesh Kapoor further stated that he cannot say from his personal knowledge as to from where these documents have come into picture. Learned Magistrate held that complainant has failed to adduce any evidence to show that documents Ex.C7 to Ex.C9 were sent by the accused to the complainant company and therefore, no offence of forgery is made out from the evidence.

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 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 by the complainant, who can say that documents Ex.C1 to Ex.C9 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