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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-4906 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 1000 metric tonnes of Tiscon Bars to Ranjit Sagar Dam. After receiving the order, the accused intimated complainant company that total material has been supplied to the said customers but administration of Ranjit Sagar Dam wrote to the complainant company that the accused had supplied only 556.531 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 Ranjit Sagar Dam. 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 Ranjit Sagar Dam 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 CW-1 Parveen Kakkar and CW-2 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 1000 MT were supplied to the accused. PW-1 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 1000 MT of Tiscon 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 accused have prepared the false documents i.e. challans Ex.P8 to Ex.P36 showing that they delivered the 1000 MT of steel to the Ranjit Sagar Dam, whereas a letter has been received Ex.P37, with regard to short supply committed by the accused and it is also the case that vide letter Ex.P40, the accused have admitted the short supply. A letter was written by Branch Manager Ex.P43 requesting the accused to make the supply to the balance. In order to prove the challans Ex.P8 to Ex.P36, the complainant examined Mukesh Kapoor, who stated that these delivery challans were given by the accused. When PW-1 Parveen Kakkar was cross-examined, he categorically stated that he has not verified the veracity and authenticity of the documents exhibited in his examination-in-chief by verifying the same from the record.

PW2 Mukesh Kapoor, proved the documents Ex.P8 to Ex.P36 and in his cross-examination, he admitted that on these documents, there are no signatures of the complainant company. He

also stated that he cannot say that from where these documents came into picture and cannot deny that documents were sent by the accused to the complainant company. PW-2 also specifically stated that he has never dealt with any transaction or any correspondence between the complainant company and accused. Learned Magistrate held that complainant has failed to prove that accused have prepared false documents Ex.P8 to Ex.P36 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 by the complainant, who can say that documents Ex.P1 to Ex.P36 are

correct and have been prepared from original documents. Therefore, after discussing the evidence in minute detail, learned JMIC, 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