

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRR No.1825 of 2012 (O&M)
Date of decision : February 11, 2016

Rajinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRR No.1854 of 2012 (O&M)

Jaswant Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner in **CRR-1825-2012**.

Mr. Vivek Goel, Advocate
for the petitioner in **CRR-1854-2012**.

Mr. Deepak Garg, A.A.G., Punjab.

Mr. N.S. Dandiwal, Advocate
for the complainant.

GURMIT RAM, J.

1. On oral request of learned counsel for the parties, both the
revision petitions are taken up today itself.

The abovenoted both the revision petitions have been filed by the abovesaid petitioners against the judgment dated 07.06.2012 passed by the Court of learned Sessions Judge, Moga, whereby the appeals filed by them against the judgment and order of sentence dated 14.06.2011 passed by the Court of Judicial Magistrate Ist Class, Moga in criminal case bearing FIR No.83 dated 21.06.2006 under Sections 420, 406, 506, 120-B, IPC, Police Station, Nihal Singh Wala were dismissed and the judgment and order of sentence passed by the learned trial Magistrate was upheld.

2. Both the revision petitions have been taken up together for disposal since these have emanated from one and the same impugned judgment dated 07.06.2012 abovementioned.

3. As per the case of prosecution complainant-Karam Singh s/o Gurbax Singh resident of village Madheke moved complaint Ex.P1 before the Senior Superintendent of Police, Moga for taking action against accused Jaswant Singh, Rajinder Singh, Hari Singh and Veerpal Kaur. Inquiry on the basis of his complaint was conducted by DSP(D) Moga which resulted into the registration of the FIR in the instant case. It was the case of the complainant that he has two sons namely Satnam Singh and Dharam Singh and one daughter namely Paramjit Kaur aged about 29 years. In the month of June 2005 his distant relative Hari Singh along with Jaswant Singh @ Pappi came to him and told him that Rajinder Singh s/o Ishar Singh cousin of Jaswant Singh had come from Canada for solemnization of his marriage, who will go back to Canada within three months after solemnization of his marriage. He further told to the complainant that, in case, he is ready to perform the marriage of his daughter Paramjit Kaur with said Rajinder Singh, then he could arrange for the same. He further assured him that said

Rajinder Singh after his marriage would take his daughter to Canada, but for this purpose he (complainant) will have to spend a sum of ₹25,00,000/- (Twenty five lacs). Complainant accepted to his proposal and the engagement ceremony of his daughter Paramjit Kaur with said Rajinder Singh was performed on 22.07.2005. At that time a sum of ₹8.5 lacs was paid to Rajinder Singh in *Shagun*. Thereafter another sum of ₹2.5 lacs was further paid to him for preparing the documents of Paramjit Kaur to take her to Canada. Then complainant came to know that said Rajinder Singh is already married with one girl namely Paramjit Kaur from whom he has got two children aged about 13 and 15 years. He has also not got any divorce from her. Further he has also been declared proclaimed offender by the Canadian Police. The abovesaid all the persons after hatching criminal conspiracy had cheated the complainant by depriving him of his abovesaid ₹11 lacs in a deceitful manner and hence was the present case. Accused were arrested. Statements of witnesses were recorded.

On the completion of investigation, challan against the accused was presented in the Court of learned Illaqa Magistrate. After the trial of the case the learned Illaqa Magistrate held accused Rajinder Singh and Jaswant Singh (petitioners herein) guilty for the offences punishable under Sections 420 read with 120-B, IPC and convicted them thereunder.

4. Feeling aggrieved from this judgment of conviction and order of sentence of the learned trial Magistrate, they filed separate appeals before the learned Sessions Judge Moga, which were dismissed vide the impugned judgment dated 07.06.2012.

5. Being dissatisfied with the abovesaid judgments delivered by

both the Courts below, the petitioners have come up with the instant revision petitions before this Court.

6. Notice was given to the respondents. Records of both the Courts below were requisitioned and perused.

7. Counsel for both the parties were heard.

8. During pendency of these revision petitions **CRM No.39159 of 2014** was filed in **CRR No.1825 of 2012** under Section 482, Cr.P.C., seeking permission to compound the offences under Section 320, Cr.P.C. One compromise deed **Annexure A-1** and one affidavit **Annexure A-2** were also annexed with the criminal miscellaneous application. CRM No.3518 of 2016 has also been filed in CRR No.1854 of 2012 for compounding the offences on the basis of compromise. Then statement of complainant-Karam Singh was also recorded in this Court.

9. In the compromise deed **Annexure A-1** it is found recorded that matter has been compromised between both the parties with the intervention of respectables of the society and according to this compromise first party (complainant) has been fully satisfied. The complainant-party will have no objection if the second party (present revision-petitioners) be acquitted in this case. These facts are also found mentioned in the affidavit **Annexure A-2**. Then statement of complainant-Karam Singh as abovesaid was recorded in this Court, wherein he has also stated that during the pendency of these petitions, a compromise has been made between the parties and that he has no objection if the petitioners be acquitted.

10. As per the table drawn in Section 320, Cr.P.C., offence under Section 420 of the IPC can be compounded by the complainant, but with the

permission of the Court. Since the parties have compromised the matter voluntarily, so as such, the permission is granted to compound this offence as it will achieve the ends of justice. So far as the offence under Section 120-B, IPC, is concerned, it is to go with the main offence. If the main offence in question is compoundable, then it is also to be so treated along with main offence. In order to draw this conclusion support is taken from the case law as laid down in ***Jitender Rana and Ors vs. State (NCT of Delhi) and Ors., 2007 Criminal Law Journal, 1641.***

11. In the light of above discussion, abovesaid both the revision petitions are accepted. Judgment of conviction as well as order of sentence passed by both the Courts below are set aside. Petitioners herein (accused) Rajinder Singh and Jaswant Singh are acquitted of the charges under Sections 420 read with 120-B, IPC, for the reasons aforementioned.

Fine, if any, paid by the petitioners be refunded to them.

Petitioners as well as their sureties are also discharged from the liability of bail bonds and surety bonds, respectively.

Since the main case has been decided, hence pending criminal miscellaneous application, if any, also stands disposed of accordingly having been rendered infructuous.

A copy of this judgment be sent to the quarter concerned for compliance.

February 11, 2016
Gaurav Sorot

(GURMIT RAM)
JUDGE