

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

**CRM-M- No.6033 of 2015
Date of decision-14.01.2016**

Sukhwant Singh

...Petitioner

Vs.

Shankar Dass & others

...Respondents

CORAM:- HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

NARESH KUMAR SANGHI, J (Oral)

Challenge in the present petition filed under Section 482 Cr.P.C, is to the judgment dated 07.08.2014 (Annexure P-2) passed by learned Additional Sessions Judge, Ferozepur, whereby the revision filed by the petitioner-complainant challenging the order dated 17.09.2012 (Annexure P-1) passed by learned Sub-Divisional Judicial Magistrate, Zira, whereby the respondents-accused were discharged, was dismissed.

Learned counsel contends that on 31.03.2006, the Power of Attorney was executed by the petitioner-complainant in favour of Shankar Dass, respondent No.1 for arranging bank loan at lower rate in favour of petitioner-complainant Sukhwant Singh. Within ten days of execution of the said Power of Attorney, the respondents-accused in

connivance with each other transferred the immovable property of the petitioner-complainant in favour of Sarabjit Singh (since deceased). He further submits that without recording cogent reasons the learned Sub-Divisional Judicial Magistrate, Zira, has discharged the accused while the Revisional Court also adopted the same procedure.

I have heard the counsel for the petitioner and with his able assistance gone through the material available on record.

Though the detailed discussion of facts is not required since both the Courts below have elaborately scribed the facts in their respective judgment/orders yet to link the present order, it is essential to have a look at the brief facts.

As per Sukhwant Singh, petitioner-complainant, Shankar Dass-respondent No.1 was Commission Agent. The petitioner used to borrow money from respondent No.1 who persuaded the petitioner to fetch loan at lower rate in favour of the petitioner from a bank. Under that pretext, respondent No.1 got executed the Power of Attorney on 31.03.2006 from Sukhwant Singh-complainant, which was witnessed by Gurmeet Singh and Sarabjit Singh. The said Power of Attorney was scribed by Amar Singh. It was a registered Power of Attorney at Wasika No.194 dated 31.03.2006, Wahi No.4, Jild No.98. Paramjit Singh was Sub-Registrar/Tehsildar at that time. At later stage the petitioner came to know that respondent No.1 in connivance with his co-accused executed sale deed of land measuring 16 kanals 11 marlas

belonging to the petitioner-complainant in favour of Sarabjit Singh (since deceased) on the basis of the above said Power of Attorney. In fact, the petitioner had never authorized Shankar Dass to sell his (petitioner) property.

The petitioner filed a complaint against the private respondents and one Sarabjit Singh for having committed the offences punishable under Section 120-B, 420, 465, 467, 468 and 471 IPC.

On the basis of preliminary evidence led by petitioner-complainant, the respondents and Sarabjit Singh were summoned to face trial for the above stated offences.

On appearance of the respondents, the petitioner produced the pre-charge evidence and after its conclusion, the learned Sub-Divisional Judicial Magistrate, Zira, heard the arguments and discharged the private respondents.

Dis-satisfied with the order of discharge passed by Sub-Divisional Judicial Magistrate, Zira, the petitioner filed a criminal revision petition before the Court of Session, which was also dismissed by learned Additional Sessions Judge Ferozepur, vide his judgment dated 07.08.2014.

While passing the order of discharge, learned Sub-Divisional Judicial Magistrate, Zira, held as under:-

“During course of arguments, learned counsel for the complainant also admitted that the suit filed by the complainant for declaration and permanent injunction in which he had challenged the power of attorney dated 31.03.2006 and sale deed dated 10.04.2006 and further claimed alternative relief of

recovery of Rs.6,21,000/- as sale consideration of the sale deed dated 10.04.2006, has been dismissed. In the present complaint, it is alleged by the complainant that he executed power of attorney on 31.03.2006 believing the same for the purpose of getting loan from the bank by accused No.1 Shanker Dass as accused Shanker Dass had represented to the complainant that he had good relations with the bank officials and he would arrange to get the loan sanctioned for the complainant. The complainant believed accused No.1 as being agriculturist, he used to sell his agricultural produce through the commission agency shop of accused No.1, but going through cross-examination of the complainant, it cannot be concluded that he was in need to take help of accused No.1 to get arranged the loan from the bank. He stated that he had limit with Bank of India for the last 4/5 years and he also executed registered mortgage deed of his land in favour of the bank and earlier limit was sanctioned to the extent of 25,000/- and then it was extended to Rs.50,000/- and then to Rs.one lac. He further stated while being cross-examined by learned counsel for accused No.5 that while taking limit from Bank of India, he did not hand over any power of attorney to any one. It has also come on the record in his cross-examination that he was member of Kassoana Cooperative Society and used to deal with amount there. Further CW.2 Santokh Singh Registration Clerk has also proved due execution of the power of attorney and the sale deed while proving certified copy of the said documents. He proved certified copy of sale deed dated 10.04.2006 as Ex.C1/CW.2 and certified copy of power of attorney dated 31.03.2006 as Ex.C2/CW.2. It is observed that the power of attorney and sale deed were executed in due process and contents of the power of attorney dated 31.03.2006 were also read over to the complainant by the Sub Registrar as discloses

the endorsement made over power of attorney.

In view of the discussion made above, it is observed that power of attorney dated 31.03.2006 was executed by complainant being well aware regarding contents of the same on the basis of which accused No.1 further executed sale deed in favour of accused No.2. Due execution of the said documents has been proved on the record and there is no suspicion leading this Court to think that there is reasonable ground for presuming that the accused have committed offences. As such, no ground is made out to frame charge against the accused and all the accused facing trial stands discharged. File be consigned to record room."

Learned Additional Sessions Judge while dismissing the revision petition held that before filing of the complaint, the civil suit was filed by the petitioner on 01.06.2006. During his cross-examination, the petitioner fairly admitted that in the said civil suit it was held that the power of attorney alleged to have been executed by him in favour of respondent No.1 was genuine. It was further held that it could not be believed that petitioner would execute a power of attorney in favour of the respondent No.1 for the purpose of arranging a bank loan at lower rate in his (petitioner) favour. It was also held that genuineness of the power of attorney and sale deed was well proved by Santokh Singh, Registration Clerk produced by the petitioner himself.

After scanning the whole material available on record, once again, this Court also finds that the reasons recorded by learned Trial

Court and thereafter affirmed by learned Revisional Court are well based and no interference is called for by this Court while exercising the jurisdiction under Section 482 Cr.P.C.

Dismissed.

(NARESH KUMAR SANGHI)
JUDGE

January 14, 2016
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