

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.3065 of 2013 (O&M)

.....

Date of decision:27.2.2016

Prem Chand

...Petitioner

v.

Satyawan Sahu and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Ram Kumar Saini, Advocate for the petitioner.

Mr. Sanjeev Sheokand, Advocate for respondent No.1.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana
for respondent No.2-State.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 22.12.2011 passed by learned Additional Sessions Judge, Jind, whereby the appeal filed by accused-Satyawan Sahu against the impugned judgment of conviction and order of sentence dated 1.12.2009 passed by learned Judicial Magistrate Ist Class, Jind, convicting the petitioner for the offence under Section 420 IPC and sentencing him to undergo rigorous imprisonment for three years and to pay fine of ₹10,000/- and in default of payment of fine to further undergo simple imprisonment for six months, has been accepted and the judgment of conviction and order of sentence passed by the learned trial Court have been

set aside having extending the benefit of reasonable doubt and the appellant-accused has been acquitted of the charge framed against him.

Notice of motion has been issued in this case.

Mr. Sanjeev Sheokand, learned Advocate has put in appearance on behalf of respondent No.1 and Mr. Brijesh Sharma, learned Assistant Advocate General, Haryana has appeared on behalf of respondent No.2-State and contested this criminal revision petition.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Haryana for respondent No.2-State and have gone through the record.

From the record, I find that Prem Chand-complainant filed complaint under Sections 420, 109 and 170 IPC against Satwayan Sahu and Som Pal Singh. Accused No.2-Som Pal Singh was given up vide order dated 20.4.2009. Accused-Satyawan Sahu has been convicted and sentenced by the learned trial Court vide judgment and order dated 1.12.2009 as mentioned above. An appeal was filed against this judgment before the Sessions Court and the learned Additional Sessions Judge, Jind vide judgment dated 22.12.2011 accepted the appeal and acquitted Satyawan Sahu-accused/appellant of the charges.

The brief facts of the case which are taken note of by the learned appellate Court in para 2 of the judgment are as under:-

“The brief resume of facts as germane from the complaint is that complainant Prem Chand has filed the complaint against appellant Satyawan Sahu and one Som Pal under Sections

420/109/170/34 IPC inter alia on the allegations that he is an Ex-Military man and resides in H. No.2579, Urban Estate, Jind with his family. Satyawar Sahu accused No.1 was posted in Police Station City Jind, who had bad reputation and never performed his duty properly and used to indulge in extorting money from the public. It is further alleged that on 17.10.2003 at about 7.00 p.m., he along with accused No.2 came to the house of the complainant under the influence of liquor. Both the accused persons were in police uniform. Later on, he came to know that accused No.2 is not a Constable and he is simply a tea vendor and police tout. Both the accused threatened his wife that one Rajpal has made a complaint against him and they have come to arrest the complainant in some serious case. On this his wife was frightened. It is further maintained that in the meantime, he along with Ram Mehar son of Surta and Jagbir son of Dhup Singh, residents of Alewa reached at the spot and both the accused threatened him that they will arrest him. When the complainant enquired about the complaint, then it was disclosed that the complaint was with accused No.2. The accused further stated that the matter can be finished, if complainant makes the payment of Rs.10,000/-. They called the complainant in the house of accused No.1 on 22.10.2003 along with money. On 22.10.2003, the complainant along with his witnesses Ram Mehar and Jagbir went to the house of

accused No.1 and handed over Rs.10,000/- on which accused No.1 assured him that he will hand over to him the copy of compromise after few days.”

The learned Additional Sessions Judge, Jind, accepted the appeal and acquitted the appellant. Aggrieved against this impugned judgment the present criminal revision petition has been filed.

I have gone through the findings given by the learned Additional Sessions Judge, Jind.

A perusal of the judgment shows that reasoning given by the learned Additional Sessions Judge are correct as per evidence and law. In no way, these findings can be held as perverse. The allegations against Satyawar Sahu, ASI are regarding asking for the bribe of ₹10,000/- which had been paid by the complainant as per his version. The appellate Court after discussing the provisions of Section 420 IPC held that to hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. The appellate Court held that basic ingredient of Section 420 IPC is missing in the evidence so produced by the complainant because the complainant when himself appeared in the witness box deposed that ASI Satyawar Sahu had come to his house and the accused had told his wife that Rajpal had given application against her husband regarding teasing his wife and the complainant himself admitted that the accused had come to his house regarding the alleged application. Then he can not say that there was no application against him. The wife of the complainant appeared as PW-2 and

she also strengthened the stand of the accused that Rajpal had given an application against her husband regarding teasing of his wife on 17.2.2003. The accused had come to his house to investigate the matter and also to bring her husband with him. She also admitted that no money was given in her presence. PW-3 Jagbir also told that the accused demanded ₹10,000/- to resolve the matter and on 22.10.2003, they made the payment at his residence. The appellate Court held that he admitted that on application of the complainant, inquiry was conducted and he joined in the investigation and he deposed contrary to earlier version and stated that he has no knowledge of inquiry conducted by DSP. The appellate Court after discussing the evidence produced on record and also the defence evidence i.e. statement of DW-1 Rajpal, who had deposed that he moved a complaint against the complainant in Police Station regarding teasing his wife. DW-3 Smt. Usha deposed that the complainant teased her and her husband filed a complaint in the Police Station against the complainant. The appellate Court after discussing the version of DW-5 B.S. Bairagi, who went to the Police Station with the complainant relied upon the defence. The Court further held that even if the allegations are presumed to be correct, then the offence under Section 7 of the Prevention of Corruption Act is made out. The findings given by the learned Additional Sessions Judge, Jind are correct as per evidence and law. In no way, the judgment can be held as perverse.

Otherwise also, in the criminal revision petition, this Court is not to re-appreciate the evidence. Rather, this Court is to see whether the

findings given by the Court below are perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the appellate Court. There is nothing on the record to show that the judgment passed by the learned Additional Sessions Judge, Jind is perverse or against the evidence. The impugned judgment dated 22.12.2011 passed by the learned Additional Sessions Judge, Jind is correct as per evidence and law and the same does not require any interference from this Court and the same is upheld.

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

February 27, 2016.

(Inderjit Singh)
Judge

hsp