

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

CRM No.M-8650 of 2016 (O&M)

Date of Decision: August 04, 2016

Naresh Kumar

...Petitioner

VERSUS

Harvinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Aditya Dassaur, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 20.02.2014 passed by learned Judicial Magistrate Ist Class, Amloh, vide which the accused-respondent No.1 was discharged in a complaint case filed by the petitioner under Sections 420, 406 and 506 IPC and the order order dated 26.11.2015 passed by learned Addl. Sessions Judge, Fatehgarh Sahib, vide which the revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Naresh Kumar filed a complaint against Harvinder Singh under Sections 420, 406 and 506 IPC. After summoning the accused, the case was fixed for pre-charge evidence. CW-1

Naresh Kumar was examined-in-chief on 08.10.2009 but thereafter, he did

not come present into the witness box for his cross-examination. CW-2 N.K.Gupta, deposed that he had brought on record the documents relating to fee paid by the complainant to the college of Easter-South Europe. CW-3 Som Nath Bajaj proved the newspaper Ex.C27 wherein the advertisement of Vishwas Education Overseas Consult has been published by the Tribune Trust.

The Court below held that as the complainant has not appeared for cross-examination, therefore, his statement in examination-in-chief cannot be read into evidence. Further, CW-2 and CW-3 are formal witnesses and they have not deposed regarding the allegations against the accused. Therefore, learned JMIC, Amloh discharged the accused there being no evidence. The revision petition filed by the petitioner was also dismissed by learned Addl. Sessions Judge, Fatehgarh Sahib vide order dated 26.11.2015.

After perusing the order dated 20.02.2014 passed by learned JMIC, Amloh and order dated 26.11.2015 passed by learned Addl. Sessions Judge, Fatehgarh Sahib, I find that both the orders are correct, as per law and evidence. No illegality has been committed by the Courts below nor these orders can be held as perverse.

Learned counsel for the petitioner argued that evidence has been closed by order by the trial Court on 13.02.2014 and he filed an application on that very day afterwards for directing the accused to cross-examine the complainant, which was also fixed for 20.02.2014.

The perusal of the record shows that examination-in-chief of complainant was recorded on 08.10.2009 and the evidence was closed on

appear in the witness box for his cross-examination for the last more than four years. This complaint looks to be of the year 2006 and was pending for the last about eight years and for the last about five years for the purpose of pre-charge evidence. Even if it is taken that the Court below has not passed the order on the application for cross-examination, even then, no illegality has been committed. Once the Court closed the evidence by order, the Court cannot review its own order.

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

August 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No