

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

**Criminal Revision No.1212 of 2014(O&M)
Date of Decision: February 17, 2016**

Tarsem Kumar

...Petitioner

Versus

S.S.Dhillon & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.R.S.Bajaj, Advocate,
for the petitioner.

Naresh Kumar Sanghi, J.(Oral)

Challenge in the present criminal revision petition is to the order dated 01.03.2014 passed by learned Additional Sessions Judge, Chandigarh, whereby the appeal filed by the petitioner challenging the order of acquittal recorded by learned Judicial Magistrate First Class, Chandigarh, whereby respondent Nos.1 and 2 were acquitted for the offences punishable under Sections 120-B and 448, IPC, was dismissed.

Learned counsel contends that the petitioner was tenant in the house owned by respondent No.1. The petitioner had got the stay order from the Civil Court in his favour for not interfering into the peaceful possession of the rented accommodation. When the petitioner was away to Patiala then at his back, respondent Nos.1, 2 and Smt.Sampuran Kaur (since

deceased) had broke open the lock of the rented accommodation and stolen the articles lying there. He further submits that despite leading evidence, both the Courts have failed to return the verdict of guilt against the private respondents.

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

The brief facts of the case are that on the complaint of Tarsem Kumar (petitioner) FIR No.145, dated 01.06.2000, for the offences punishable under Sections 120-B and 448, IPC, was registered at Police Station, South, Chandigarh, against respondent Nos.1, 2 and Smt.Sampuran Kaur (since deceased). After completion of the investigation, the charge-sheet was presented. The charges for the offences punishable under Sections 120-B and 448, IPC, were framed by learned Judicial Magistrate First Class, Chandigarh.

In order to substantiate its allegations, the prosecution examined Col. Jagjit Singh Mand as PW-1, the petitioner, Tarsem Kumar appeared as PW-2, Constable Rajpal as PW-3, Aman Kansal as PW-4, Gurbach Singh, Senior Assistant, Estate Office, UT, Chandigarh, as PW-5, retired DSP S.C.Sagar appeared as PW-6, Charanjit Singh Bahia as PW-7,

K.S.Heer as PW-8, Jai Singh as PW-9, and Tirath Raj as PW-10. Since the prosecution has failed to examine all its witnesses despite affording adequate opportunities, learned trial Court was constrained to close the prosecution evidence by order.

The statements of the private respondents were recorded, in terms of Section 313, Cr.P.C., in which they denied the incriminating evidence emerging against them and took the stand that they were falsely implicated.

In defence evidence, the private respondents examined B.D.Bector as DW-1, K.L.Sharma as DW-2, Suresh Kumar as DW-3, Darshanbir Singh Shani as DW-4, Manu Puri as DW-5 and Rakesh Kumar, as DW-6.

After hearing learned counsel for the parties, learned trial Court acquitted the private respondents vide its judgment dated 05.04.2012.

Dissatisfied with the judgment of acquittal, the petitioner filed an appeal before the Court of Session and that too was dismissed vide judgment dated 01.03.2014.

Learned trial Court found that from the deposition of the petitioner and his son, who were the material witnesses, it could not be substantiated that the petitioner was in possession of the house belonging to the private respondents. It has also found that the petitioner had failed to substantiate the factum of

theft also. Learned trial Court also returned the verdict that the petitioner along with his family had shifted to Sector 40, Chandigarh, prior to the occurrence. The other material witnesses had not supported the prosecution version and as such, finding the deposition of the petitioner and his son to be improbable extended the benefit of doubt to the private respondents and acquitted them. Learned Appellate Court, after scanning the whole material available on record, also affirmed the judgment passed by the Court below.

This Court also finds that the evidence led by the prosecution to substantiate its allegation was not sufficient to hold that the private respondents had broke open the locks and removed the articles lying there.

While dealing with the present petition, this Court is also conscious of the jurisdiction of the Court while hearing the revision petition against acquittal. In this case, not only learned trial Court but the Court of Session while hearing the appeal has also affirmed the judgment of acquittal.

In view of the totality of the facts and circumstances of the case, no interference is called for by this Court.

Dismissed.

February 17, 2016
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(Naresh Kumar Sanghi)
Judge