IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3892-2013 (O&M)
Date of decision: August 16, 2016.

Vedpal

... **Petitioner**

v.

Surender @ Pappu and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Manoj Chahal, Advocate for the petitioner.

A.B. Chaudhari, J. (Oral):

Heard learned Counsel for the petitioner.

In the present revision petition, there is a challenge to the concurrent findings of acquittal recorded by the courts below for criminal offences under Section 420, 406 IPC.

In support of the petition, learned Counsel for the petitioner vehemently argued that the courts below have landed in error by recording finding of acquittal which is based on perverse and illegal reasoning. He further contended that the finding of acquittal recorded by both the courts below is contrary to the evidence adduced on record and the law applicable thereto. He therefore prayed for reversal of judgment of acquittal.

Upon hearing, learned Counsel for the petitioner and upon perusal of reasoning which was advanced by the courts below, I find that no interfere in the order of acquittal made by the courts below is made out. I quote para 14, 15 and 16 from the judgment of trial court, which read thus:-

> “14. As per allegation of the complaint made by PW4 Vedpal, he got loan from SBI, Loharu through Surender @ Pappu (accused). He along with accused Surender came in SBI, Loharu for taking the loan and Surender filled up all the forms as he was illiterate and attested by Surender and Surender had taken him to SBI ¾ times with the saying that he would get sanctioned loan and during this process, he had withdrawn amount Rs.4,75,000/- from the bank. When bank officials came to his house for installment, he came to know about this fraud. These allegations made in complaint Ex.PW4/A have been falsified by the statement of PW3 S.R. Karolia, Manager of the Bank. He deposed before the Court that the documents pertaining to loan of Vedpal complainant were taken into police possession and proved copies of receipts/vouchers as Ex.PW3/A to Ex.PW3/E and he had given verified copies of the documents and brought the original record and documents Ex.PW3/A to Ex.PW3/E are correct with the original documents. He admitted in cross-examination that before advancing loan, they used to do field inspection. Loan application is to be moved by the applicant and this loan is not pertaining to his period. Mortgage deed is to be filled in the bank and

thereafter, same is to be got registered. Loan was transferred in saving bank account and applicant himself had withdrawn the same. He admitted in cross-examination that all the loan amount was paid to Vedpal complainant. Complainant Vedpal had withdrawn the amount from his saving bank account as it was transferred by the bank in his saving bank account. He further admitted in cross-examination that loan amount was given to Vedpal and not to any other person.

15. If the above referred entire statement of PW3 S.R. Karolia, Branch Manager of SBI, Loharu is appreciated in the light of vouchers Ex.PW3/A to Ex.PW3/E, the debit loan vouchers have been signed by the complainant Vedpal and now it does not lie in his mouth that he did not execute the documents and did not receive the amount pertaining to the loan from the bank. It is worthwhile to mention here that when a person raises loan from the bank, he has to execute the necessary bank documents including hypothecation deed/mortgage deed and these documents of the bank were not taken into possession during investigation but from the statement of PW3 S.R. Karolia, Manager, it is established that it was PW4 Vedpal complainant who had executed all the necessary bank documents in favour of the bank at the

time of raising the loan and amount was received by him by way of withdrawal from his saving bank account as firstly, the loan amount was credited in the saving bank account of the complainant and thereafter, same was withdrawn by him. Hence, the learned Lower Court has rightly appreciated the evidence on this point.

16. In the present case, accused has suffered disclosure statements Ex.PW1/A to Ex.PW1/B during interrogation on 1.5.2010 and in view of disclosure statements, Rs.10000/- were recovered from his possession vide recovery memo Ex.PW1/C as deposed by PW10 ASI Ram Kishan and PW1 SI Dinesh Kumar. If the loan procedure is appreciated in view of the statement of PW3 S.R. Karolia, Manager of the Bank, even from this evidence the case of the prosecution has not been established, because it is established that it is only PW4 Vedpal who has raised the loan from the bank after executing necessary bank documents and he had withdrawn the loan amount through his saving bank account. Hence, in the present case, disclosure statements of accused and recovery of Rs.10,000/- made by the accused in token thereof, cannot be relied upon to warrant the conviction of accused person. No doubt, in view of the judgment Bateu Venkateshwarlu's case

(supra), the Appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded, but in the present case, the prosecution has failed to prove beyond doubt the complicity of the accused in the commission of offence."

Two courts below have thus concurrently found that the prosecution failed to prove its case. In that view of the matter, concurring with the courts below, I make the following order:-

ORDER

(i) The revision petition is dismissed summarily.

[A.B. Chaudhari]
Judge

August 16, 2016.
kadyan

Whether speaking/reasoned Yes/No

Whether reportable Yes/No