

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

**Criminal Revision No.3351 of 2014 (O&M)
Date of Decision: 10.11.2016**

Ramjas Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Sumeet Puri, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. J.K. Singla, Advocate
for the complainant.

HARI PAL VERMA, J.

Petitioner – Ramjas Singh son of Jarnail Singh, resident of Chowbas Jakhepal, District Sangrur, has filed the present revision petition against judgment dated 22.9.2014 passed by learned Additional Sessions Judge, Sangrur, whereby his appeal against the judgment of conviction and order of sentence dated 23.9.2013 passed by learned Judicial Magistrate Ist Class, Sunam, was dismissed.

Briefly stated, a case bearing FIR No.52 dated 16.4.2007 under Section 406 IPC, Police Station Sunam was registered against the petitioner on the basis of an application made by complainant - Sinder Kaur widow of Gurbachan Singh, resident of Chatha Nanhera. As per the FIR, husband of

the complainant Gurbachan Singh had died about 1½ year ago, but before

his death, he had executed a Will in favour of the complainant regarding land measuring 15 kanals 13 marlas situated at Village Chatha Nanhera. Therefore, she is the owner of the said land. She has two daughters namely Raj Kaur and Amarjit Kaur. Raj Kaur is married in Village Khai whereas Amarjit Kaur is married in Village Tolawal. A case was registered against Raj Kaur and she remained in Sangrur jail. The complainant had blind faith in her daughter Amarjit Kaur. She usually used to instigate the complainant to sell her land and started living with her. The complainant being an old-aged lady, agreed with accused Amarjit Kaur. Gurpiar Singh is son of Amarjit Kaur and Ramjas son of Jarnail Singh is his brother-in-law. On 27.4.2016, Amarjit Kaur and Ramjas accompanied the complainant to Sunam for execution and registration of sale deed regarding land measuring 15 kanals and 13 marlas in favour of Kewal Singh and Balwinder Singh sons of Gurdev Singh to the extent of 1/3rd share and Amarjit Singh son of Jangir Singh and Jagtar Singh son of Jagroop Singh to the extent of 2/3rd share, for a consideration of Rs.11,89,000/- and got the sale deed executed, but the whole consideration amount remained in the custody of Amarjit Kaur and Ramjas. After the execution of the sale deed, on the next day, Amarjit Kaur and Ramjas took the complainant to State Bank of Patiala Branch Jakhepal and got her thumb impression on some documents on the pretext of depositing the whole consideration amount in the bank. After about six months, the complainant came to know from reliable sources that Amarjit Kaur and Ramjas had deposited only Rs.3,50,000/- in her name and the remaining amount was usurped by them. On enquiry from the accused regarding her remaining amount, Amarjit Kaur and Ramjas told her that the amount was deposited in the bank. Accordingly, the complainant sent her son-in-law Tarsem Singh to the bank, whereupon he obtained her thumb

impressions on some papers and withdrew Rs.3,50,000/-. In this manner, the whole amount of Rs.11,89,000/- was usurped by the accused party.

On the basis of the FIR so registered, the police conducted investigation and found that an amount of Rs.11,89,000/- had been embezzled by the accused Amarjit Kaur and Ramjas and thereby, cheated the complainant.

In order to prove its case, prosecution examined PW-1 Lachhman Singh, PW-2 Kewal Singh, PW-3 Narain Dutt, PW-4 Sinder Kaur, PW-5 Raj Kaur, PW-6 SI Jarnail Singh, PW-7 Jarnail Singh from State Bank of Patiala, PW-8 SI Balpuri, PW-9 Prithi Chand, Patwari, PW-10 ASI Pavittar Singh, PW-10 Amarjit Singh Joshi (again numbered as PW-10), PW-11 Inspector Devinder Singh, PW-12 ASI Balwant Singh, PW-13 C-Hardev Kaur.

Learned Magistrate vide judgment dated 23.9.2013 convicted the petitioner for offence under Section 406 IPC and vide separate order of even date, sentenced him to undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- and in default of payment of fine, to undergo further RI for 15 days.

Aggrieved from the aforesaid judgment of conviction and sentence dated 23.9.2013, the petitioner preferred an appeal before learned Additional Sessions Judge, Sangrur, but the same was dismissed vide judgment dated 22.9.2014.

It is in these circumstances, the petitioner has filed the present revision petition.

On 12.12.2014, this Court had passed the following order:-

“Challenge in this criminal revision petition is to the judgment, dated 22.09.2014 passed by the learned Additional

Sessions Judge, Sangrur, whereby appeal filed by the petitioner challenging his conviction and sentence for the offence punishable under Section 406, IPC, recorded by learned Judicial Magistrate Ist Class, Sunam, was dismissed.

Learned counsel for the petitioner at the very outset submits that in view of the concurrent findings of both the Courts below, he does not want to challenge conviction of the petitioner, however, there are fairly arguable points so far as quantum of sentence is concerned.

Notice of motion with regard to quantum of sentence only for 09.02.2015.”

Since learned counsel for the petitioner has confined his arguments only qua the quantum of sentence, this Court passed following order on 24.7.2015:-

“Learned counsel for the petitioner seeks time to get instructions whether the petitioner is ready to settle the matter amicably by paying the share of the complainant and her second daughter, to them.

On his request, adjourned to 21.9.2015.

To be heard alongwith CRR No.3351 of 2014.”

Again on 2.11.2015, learned counsel for the petitioner has submitted that the petitioner is ready to enter into a dialogue with the complainant, so as to arrive at an amicable settlement, as the parties are closely related to each other. Considering the aforesaid request, this Court released the petitioner on interim bail, so as to enable him to show his *bona fide*. Thereafter, the petitioner has been getting adjournments one after the other, giving an impression that he is sincere in settling the dispute.

On 23.12.2015, this Court passed the following order:-

“In compliance of the last order dated 21.12.2015 passed by this Court, complainant Smt. Sinder Kaur is present in the

Court along with her daughter Smt. Raj Kaur. HC Mann Singh from Police Station Cheema, District Sangrur, who is also present, is directed to facilitate Smt. Sinder Kaur-complainant in getting her bank account open in the nearest branch of the bank, which is stated to be at Jakhepal, District Sangrur, within a period of one week from today.

Petitioner, who is present in Court, has taken undertaken to pay the amount of his share to the complainant by way of installments. Total amount was Rs.11,89,000/- and 50% share would come to the share of petitioner. He is directed to deposit an amount of Rs.50,000/- in the bank account of the complainant Smt. Sinder Kaur, within a period of two weeks from today. He shall contact HC Mann Singh of Police Station Cheema, District Sangrur to know the bank account number of the complainant, wherein he shall deposit the amount of Rs.50,000/- within a period of two weeks, as undertaken by him. This amount of Rs.50,000/- will be treated as the 1st installment and the further appropriate directions shall be issued on the next date of hearing.

In view of the above peculiar facts and circumstances of the case, petitioner is directed to pay an amount of Rs.1500/- to the complainant towards costs as she has come to attend this Court, in compliance of the order dated 21.12.2015 passed by this Court.

List on 12.01.2016 for further considerations.

Petitioner is further directed to be present in the Court on the next date of hearing.

Presence of the complainant shall remain exempted till further orders.”

Though after the passing of the order dated 23.12.2015, there was no justification to adjourn the matter for another date, but still, this Court vide order dated 11.4.2016 referred it to Mediation and Conciliation Centre of this Court and the parties were directed to appear before it on

in favour of the complainant in terms of order dated 23.12.2015. But still, the order dated 23.12.2015 was not complied with. Thereafter, on 6.9.2016, learned counsel for the petitioner has submitted that the petitioner was not well and therefore, he could not comply with the order dated 23.12.2015. Learned counsel for the petitioner, on instructions from his client, who was present in Court on that date, undertook to deposit the amount, as referred in order dated 23.12.2015 within one month from that day and therefore, the matter was posted for hearing on 6.10.2016. But still, the petitioner did not comply with the aforesaid order and continued to seek adjournments on one pretext or the other.

On 20.10.2016, this Court passed the following order:-

“Learned counsel for the State is directed to assess and apprise this Court about the financial condition of the petitioner.

At this stage, learned counsel for the petitioner undertakes that the petitioner will bring an amount of Rs.50,000/- to be paid to the complainant on the next date of hearing.

Adjourned to 07.11.2016.”

However, on 7.11.2016 again, an adjournment was sought on behalf of the petitioner for today and even today, learned counsel for the petitioner has not brought the said amount, as undertook by the petitioner and reflected in the order dated 20.10.2016.

I have heard learned counsel for the parties.

There are concurrent findings of fact recorded by both the Courts below which is based on evidence on record and it is settled proposition of law that there is no scope for interference by this Court in revisionary jurisdiction by re-appreciating the evidence. Reliance may be

placed on judgment of Hon'ble the Apex Court in the case of **Johar and others Versus M/s Mangal Prasad and another 2008(3) SCC 423**, wherein Hon'ble Apex Court while dealing with the scope of interference by High Court in the revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

However, this Court, taking into consideration the close relationship between the parties has shown enough magnanimity and afforded numerous opportunities to the petitioner to settle the dispute amicably. The petitioner was even released on interim bail vide order dated 2.11.2015 in order to arrive at an amicable settlement and to pay the amount as undertook by him. But the petitioner has failed to do so and kept on seeking adjournments and thereby, prolonged the decision of this revision petition. Lastly, on 20.10.2016, the petitioner undertook that he shall bring an amount of Rs.50,000/- to be paid to the complainant on the next date, but the petitioner has neither honoured his undertaking nor complied with the orders passed by this Court. The complainant, who is a poor widow, has been made to suffer on account of dishonest conduct of the petitioner. Even during investigation, it has been found that an amount of Rs.11,89,000/- had been embezzled by the accused petitioner along with accused Amarjit Kaur and thereby cheated the complainant.

Once the present revision petition was confined to the extent of quantum of sentence and the petitioner has failed to honour his undertaking,

to make the payment of the amount in question to the complainant, as per order dated 23.12.2015 of this Court, this Court is of the opinion that that petitioner is not entitled for any relief, particularly when there is concurrent findings of fact recorded by both the Courts, holding him guilty for offence under Section 406 IPC. As reported by the police, the petitioner is stated to be maintaining a good house, but he has no intention to pay back the money in question to the complainant.

In view of the above, I find no reason to interfere with the impugned judgments passed by the Courts below.

Accordingly, the revision petition is dismissed.

Consequently, the interim order dated 2.11.2015 passed by this Court, granting interim bail to the petitioner, which has been extended from time to time, shall stand withdrawn.

Accordingly, the petitioner is directed to surrender before the Chief Judicial Magistrate/Duty Magistrate, Sangrur within a period of one month from today for undergoing his remaining sentence. In case the petitioner fails to surrender on the date fixed, Chief Judicial Magistrate, Amritsar, shall take appropriate action to secure his presence and commit him to custody to undergo the remaining sentence.

A copy of this order be sent to the Chief Judicial Magistrate, Amritsar for necessary compliance.

November 10, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No