

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

Date of decision-08.08.2016

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| 1. | CRR No.2400 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Kanwarbir Singh | ...Respondent |
| 2. | CRR No.2403 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Jai Bhagwan Sharma | ...Respondent |
| 3. | CRR No.2504 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Bhushan Kumar Chadha | ...Respondent |
| 4. | CRR No.2505 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Balraj Krishan Salwan | ...Respondent |
| 5. | CRR No.2509 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Umesh Kapoor | ...Respondent |
| 6. | CRR No.2514 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Damanjit Kaur | ...Respondent |
| 7. | CRR No.2523 of 2016 (O&M) | |
| | State of U.T.Chandigarh | ...Petitioner |
| | Vs. | |
| | Rajinder Kumar | ...Respondent |

8. CRR No.2533 of 2016 (O&M)

State of U.T.Chandigarh

...Petitioner

Vs.

Rakesh Kumar Bansal

...Respondent

9. CRR No.2534 of 2016 (O&M)

State of U.T.Chandigarh

...Petitioner

Vs.

Surinder Kumar Gupta

...Respondent

10. CRR No.2542 of 2016 (O&M)

State of U.T.Chandigarh

...Petitioner

Vs.

Sadhu Ram Verma

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Amarjit Singh Virk, Additional.P.P, UT, Chandigarh.

JITENDRA CHAUHAN, J.

This judgment shall dispose of aforementioned ten criminal revision petitions arising out of the FIR No.03 dated 26.06.2004 under Section 420 Indian Penal Code registered at Police Station Vigilance Chandigarh, filed by Union Territory, Chandigarh.

The brief facts of the case as mentioned in the judgment passed by the trial Court are as under:-

“That an anonymous complaint was received which was addressed to The Adviser Chandigarh Administration, Chandigarh regarding the allotment of land to bogus members of co-operative house building societies in Chandigarh in connivance with Inspector S.K.Bansal and Inspector Amarjit Singh and the same was sent to Vigilance Cell vide endorsement No.3659-

HIII (6)-97/8276, dated 15.04.1997 by Home Secretary, U.T. Chandigarh and on the basis of this complaint, a vigilance enquiry no.281/Vig./R, dated 17.04.1997 was conducted by Inspector Prem Lal Chauhan, Inspector Vigilance, Chandigarh. The contents of said complaint are that since long a very big scandal is going on in Chandigarh in the allotment of societies land. This is being done none others but with the connivance of Inspector S.K.Bansal and Inspector Amarjit Singh with the help of President and Secretary of the different societies. Some time back very costly land was allotted to the societies in Sector 48-A and Sector 49-A and now the above Inspectors with the conspiracy of 'KARTA-DHARTA' of the societies are blackmailing the allottees. These peoples knew it very well that most of the allottees are bogus who were not the residents of Chandigarh, so they are compelled to do what ever these people want. These people are collecting lacs of rupees through black-mailing, everybody knew that in Chandigarh the residential houses are very costly and out of the reach of common people and therefore the corrupt officials and bad elements of the society are taking undue benefit of the situation. In the past also these people have earned lacs of rupees from the allotment of land to Progressive House Building Society and other likewise societies. As a sufferer he requested to order an impartial inquiry so that general public be saved from the looting of these bad elements.

On the basis of said statement, the present FIR was got registered against accused and investigation was conducted. The rough site plan of the place of occurrence was prepared. The statements of

witnesses were recorded. The accused was arrested and released on bail. After completion of necessary formalities of investigation, the accused was challenged and sent to the Court to stand trial for having committed the aforesaid offence.”

Copies of challan and other documents were supplied to the all the accused free of cost. Charge under Section 420 IPC was framed against the accused to which they did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined witnesses and thereafter, the statements of all the accused/respondents were recorded under Section 313 Cr.P.C. All incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication.

After appraisal of the evidence, the learned trial Court acquitted the accused by observing that the allotment of house in question was made prior to the acquisition of another house. It was further observed by the trial Court that the inquiry report incriminating the accused was not placed on record. Therefore, in the absence of any material evidence, the accused in all the aforesaid ten cases were acquitted vide different judgments dated 08.10.2015 passed by the trial Court.

Feeling dis-satisfied, the UT.Chandigarh filed ten different appeals before the Court of Sessions, Chandigarh. The lower Appellate Court vide judgment dated 21.03.2016 dismissed the appeals.

By filing the present revision petitions, the impugned judgments passed by the trial Court as well as the Lower Appellate Court have been

assailed.

On behalf of the petitioner, it is contended that there is sufficient evidence on record to connect the accused with the crime. The Courts below have not analyzed the evidence in correct perspective. The prosecution has been able to prove its case against the accused beyond a reasonable shadow of doubt. The allotment of both the houses to each of the accused have been proved on record by producing the allotment letters. The respondents have admitted the allotment of both the houses. Therefore, in view of the admission made by the accused, the Courts below failed to appreciate facts on record and committed error in discarding the version of the prosecution.

I have heard the learned counsel for the petitioners and have gone through the case file.

The issue to be settled in the present petition is whether the respondents made a false declaration with regard to their properties, i.e. dwelling units while applying for the flats in the Progressive House Building Society.

The short question to be decided in all the ten revision petitions is as to whether the respondents misrepresented before the petitioner-department while getting the allotment of house in Progressive House Building Society. There is finding of fact recorded by the Courts below that the house in the aforesaid society was allotted prior in time and the acquisition of another house by the respondents was subsequent in time. Further, the inquiry report containing the alleged affidavit/undertaking was not placed on record by the petitioner-department. Meaning thereby, the

very document on the basis of which the foundation of the prosecution case was laid, was produced on record of the Court. There is no evidence on record that any of the respondent was holding any dwelling unit at the time of making the application for allotment of the flat in the society in question. This being so, this Court has no option but to concur with the view taken by the Courts below. The prosecution has failed to prove that the respondents committed cheating while getting house allotted in the aforesaid society. Consequently, all the ten revision petitions are dismissed.

(JITENDRA CHAUHAN)

JUDGE

August 08, 2016

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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

