

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

**CRR No.2773 of 2016 (O&M)
Date of Decision: August 08, 2016**

James Bhatti

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

INDERJIT SINGH, J.

The present revision has been filed by the petitioner James Bhatti under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 26.03.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of five days under Section 420 IPC and also challenging the judgment dated 20.07.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioner was dismissed but the sentence of the petitioner was reduced and he was directed to undergo rigorous imprisonment for a period of one year instead of two years under Section 420 IPC with no order

James were acquitted by learned JMIC, Jalandhar.

From the record, I find that challan was presented against Jamesh Bhatti and two other accused in case FIR No.283 dated 24.11.2010 under Sections 406 and 420 IPC and Section 12 of the Passport Act. The brief facts of the case as noted down in the judgment passed by learned JMIC, Jalandhar, are as under:-

“2. The brief facts of the prosecution case are that the present case was registered on the statement of complainant Gurwinder Singh son of Satwant Singh resident of Village Tunga, Tehsil & District Gurdaspur, Police Station Gurdaspur to the effect that he has studied upto +2 standard and is an unemployed. He intends to go to abroad and in the year 2009, he came to know from the newspaper that A.T. Enterprises are giving advertisement for sending the persons to Canada for Meat Making, Food Making and Fish Making. On this, he alongwith his father Satwant Singh went to the office of A.T. Enterprises at 45 Central Market, Near Bus Stand, Jalandhar, where he met James Bhatti son of Rehmat Masih, Puneet James and Ankur James and they assured to send him to Canada for a consideration of Rs.6,00,000/-. On 18.06.2009, he has deposited a demand draft in the account of A.T. Enterprises bearing No. 0562000002271 amounting to Rs.50000/- drawn on HDFC Bank. On 16.11.2009, he alongwith Satwant Singh got deposited a sum of Rs.2,45,000/- to James Bhatti, Ankur Jamesh and Puneet James, but they had not given any receipt qua the same to him. On 7.10.2010, he has got deposited a sum of Rs.50000/- in account NO. 07310200002025 in the ICICI Bank Gurdaspur and all the said amounts got deposited by him, had been withdrawn by the above said three persons immediately. He has also got deposited the photo copy of his passport in the office of the accused persons. Thereafter, he alongwith his father Satwant Singh inquired from the accused through telephone for sending him to abroad, but the accused persons lingered the matter and stated that they will send the complainant to Canada within a period of one month and further stated that they have booked the ticket of the complainant for 22.10.2010. On 12.10.2010 he went to the office of A.T. Enterprises and found that the office was lying locked and thereafter the complainant went to the residence of the accused i.e. 312 Karol Bagh, Ladhewali and came to know that the accused has also left their residence after locking the same. Thereafter, one Malkiat Singh son of Jatinder Singh met him and told that he has also deposited a sum of Rs.2,00,000/- in the account bearing No.02562000002271 of James Bhatti, Ankur James and Puneet

James and further disclosed that one Kamaljit Singh son of Davinder Singh has also given Rs.180000/- and his passport to the accused and he has also informed that Parshotam Lal has given Rs.1,00,000/- alongwith passport, Navdeep Singh son of Harnek Singh has given Rs.2,00,000/-, Krishan Rani daughter of Ujjagar Singh has given Rs.1,20,000/-, Tejinder Singh has given Rs.4,50,000/- to the above said accused persons for sending them to abroad. The accused persons namely James Bhatti, Ankur James and Puneet James have dishonestly induced them to deliver the above said amounts, alongwith their passports on the pretext of sending them to abroad. But, neither the accused persons have send them to abroad nor returned the amount and as such they have committed an offence of fraud with them. On the basis of the statement of the complainant, a case under section 420/406 of Indian Penal Code & 12 of Passport Act was registered against the accused. During investigation, statements of the witnesses were recorded. The accused were arrested. The accused Puneet James also got recovered eight passports of the different persons from his office i.e. 45 A.T. Enterprises, Central Market, Green Park, Jalandhar, which were taken into police possession vide separate recovery memo. On completion of investigation and necessary formalities, the challan against the accused was presented in the court with a prayer to convict and to sentence the accused as per law. ”

The prosecution examined PW-1 Sumit Sharma, PW-2 Parshotam Lal, PW-3 Tejinder Singh, PW-4 Gurwinder Singh, PW-5 Arvind Bhaskar, PW-6 Kamaljit Singh, PW-7 Krishna Rani, PW-8 Navdeep Singh, PW-9 Malkiat Singh, PW-10 Harjit Singh, PW-11 Inspector Naresh Kumar Joshi, PW-12 ASI Sukhchain Singh and PW-13 ASI Sewa Singh.

Learned JMIC, Jalandhar, after appreciating the evidence, convicted and sentenced the petitioner and acquitted co-accused as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Jalandhar with the modification in the sentence as stated above, vide judgment dated 20.07.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

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

At the time of arguments, learned counsel for the petitioner has not pointed out as to which material evidence has been misread and which material evidence has not considered by the Courts below. Learned counsel for the petitioner also failed to point out as to how the findings given by learned Courts below are perverse or against the evidence. He has also failed to show as to what illegality has been committed by the Courts below while passing the impugned judgments. There is allegation against the present petitioner that he took huge amount from so many persons. Even at the time of arguments, learned counsel for the petitioner did not challenge that complainant deposited the amount in the account. The main argument of learned counsel for the petitioner is that petitioner was only consultant and has not taken money, which has not been supported and corroborated by any cogent evidence. No other defence evidence has been led by the accused in the present case. So many witnesses have deposed consistently regarding the cheating committed by the present revision petitioner.

PW-3 Tejinder Singh stated that on 26.10.2008, he gave the draft amounting to ₹4,50,000/- in the name of A.T. Immigration to the accused. PW-2 Parshotam Lal stated that he gave ₹35,000/- in cash to James Bhatti. After three months, accused again called him for medical examination and also received ₹5260/-. On 20.10.2009, he has deposited a sum of ₹15,000/- and ₹60,000/- with the accused persons. He also stated that James Bhatti also gave receipt of ₹15,000/- and ₹60,000/- on the earlier receipt of ₹35,000/- Ex.PW2/A. The other PWs have also deposed

consistently in support of the prosecution version.

From the perusal of the judgments, I find that no illegality has been committed by the Courts below while passing the impugned judgments. This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. This Court is only to see whether the findings given by the Courts below are perverse or illegal or any material evidence has been misread or has not been considered.

In view of the above discussion, I find that the findings given by learned Courts below are correct, as per law and in no way, these can be held as perverse.

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

August 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No