

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29094 of 2015
Date of Decision: September 04, 2017

Inderjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ankur Bansal, Advocate
for the petitioner.
Mr. Randeep Singh Khaira, Assistant Advocate
General, Punjab
Mr.B.D.Sharma, Advocate for respondent No.2

ARVIND SINGH SANGWAN, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (`Cr.P.C. for short) challenging order dated 8.7.2015 (Annexure P1) passed in Criminal Revision No. 30147/13 titled as `*Sham Sunder vs State of Punjab*' whereby, while allowing the revision petition, the Additional Sessions Judge has set aside the order dated 26.9.2013 vide which charges were ordered to be framed against respondent No.2 and further a direction was issued to the trial Court to rehear the parties on the point of charge and pass a fresh order.

Prosecution version, as per the FIR, is that the petitioner

had purchased a building on 23.12.2011 in which respondent No.2 was tenant. Lateron, the petitioner-complainant filed a petition for ejectment before the Rent Controller in which respondent No.2-Sham Sunder, as a tenant, produced 14 receipts for the purpose of showing that the rent of the premises in dispute was ₹400/- per month. These receipts were submitted by another tenant of the petitioner in another eviction petition filed against that tenant, namely, Vijay Kumar. As per the allegations in the FIR, a copy of the receipt produced by respondent No.2 was, in fact, forged receipt and, therefore, the FIR under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 ('IPC' for short) was got registered against respondent No.2. The trial Court, vide order dated 26.9.2013, framed the charges against the respondent under Sections 420, 466, 467, 468, 471 read with Section 201 IPC. Respondent No.2-Sham Sunder preferred a revision before the Additional Sessions Judge, Jalandhar and, while allowing the same, vide impugned order dated 8.7.2015, the revisional Court has observed as under:-

“8.The police presented challan in this case without ever inspecting the judicial file or obtaining certified copies of the rent petition and the allegedly forged and fabricated receipts produced in the same. No comparison of the questioned signatures appearing on the receipts filed in the court with admitted signatures of Amar Nath and Aman Kumar, was got done from any handwriting expert. In fact if the Investigating

Officer had basic legal knowledge then he would have known that comparison of signatures is legal permissible only from the original document and not from the photocopy. Therefore, I find that enquiry report in this case is clearly based on wrong appreciation of facts and law. The Enquiry officer never saw the allegedly forged and fabricated receipts filed in the court,so,his report alleging that signatures of Amar Nath and Aman Kumar on the said receipts are forged and fabricated, is clearly preposterous.

9.During the hearing of the revision petition, learned counsel for petitioner filed certified copies of some receipts, which were submitted by Vijay Kumar tenant son of Rulia Ram in a suit for permanent injunction pending in the court of Shri Sanjiv Joshi,Civil Judge(Sr.Div.)Jalandhar. The certified copies of rent receipts filed in the court by the revision petitioner are same rent receipts which were produced by Sham Sunder,revision-petitioner in the Rent petition titled as Inderjit Singh vs Sham Sunder,pending in the court of Sh.Manav,Rent Controller,Jalandhar. Actually,Vijay Kumar was tenant in the adjoining shop of Sham Sunder (revision petitioner/accused), the original rent receipts in favour of Vijay Kumar allegedly issued by Amar Nath and Aman Kumar were submitted by him in the said suit of permanent injunction and there from certified copies have been

produced before this court. The revision petitioner only produced in the rent petition photocopies of receipts in order to claim that his landlord Amar Nath had been collecting rent @ Rs.400/- per month from the tenant of the adjoining shop namely Vijay Kumar son of Rulia Ram. Therefore, from the same, it is clear that rent receipts of which photocopies were filed by the accused/revision petitioner Sham Sunder before the Rent Controller, were produced in original in the suit for permanent injunction pending in the court of Shri Sanjiv Joshi, Civil Judge (Sr. Div. I) Jalandhar bearing civil suit no.32/12 dated 7.3.2012 decided on 28.4.2012 by the 8 tenant Vijay Kumar in whose favour, the same were issued by Amar Nath and Aman Kumar (landlords). In case, the Enquiry Officer had properly conducted the enquiry and asked Sham Sunder from where he obtained photocopies of rent receipts produced by him in the court of Rent Controller, then he would have come to know about the source of said receipts. Enquiry Officer, without conducting the proper enquiry, in a hurry, gave findings in favour of the complainant Inderjit Singh.

10. As already discussed above, the findings of Enquiry Officer which form the basis of the report under section 173 CrPC are not supported by the documents on record. Therefore, the report submitted by the police under section

173 CrPC is clearly devoid of any substance. In these circumstances, the impugned order dated 26.09.2013 passed by the learned Trial Court is set aside. The case is returned to the court of Learned Trial Court with a direction to rehear the parties on the point of charge and to pass a fresh order in the light of facts discussed above. The revision petition filed by the revision petitioners, is accordingly accepted.

11. Trial Court record be returned alongwith the copy of order. File of this court be consigned to the record room.”

The present petition has been filed challenging the aforesaid order vide which the trial Court is directed to pass a fresh order on the question of the charges.

Learned counsel for the petitioner has submitted that, in fact, Sham Sunder, accused was a tenant of two shops, which were purchased by the petitioner, and when he filed a rent petition, he had claimed rent at the rate of ₹10,500/- and the tenant claimed that, in fact, the prevalent rent is ₹400/- per month and, in support thereof, he produced 14 copies of 14 receipts executed by another tenant of the petitioner, namely, Vijay Kumar, who was in possession of third shop. It is further submitted that as per the inquiry conducted by the Police dated 12.1.2013, it was found that the receipts produced by Sham Sunder in the Court were forged as the signatures of Amarnath and Aman Kumar did not tally with the original signatures available

on the sale deed of the year 1972 and ration card and, therefore, prima-facie, offence of forgery is made out. It is also submitted that, during the investigation, Section 201 IPC. was later on added as the accused failed to inform the Court about the details of the original receipts which were produced before the Court of the Rent Controller. Learned counsel for the petitioner has also relied upon the judgment of the Apex Court in **Helios & Matheson Information Technology Ltd. and others vs. Rajeev Sawhney and another** 2012(1) SCC(Cri)767 and submitted that while challenging the order framing charges in revisional Court by the accused, the revisional Court can only examine the correctness of the order framing the charges by reference to the documents referred to under Sections 239 and 240 Cr.P.C and Court could not quash the charges on the basis of documents which the accused may produce in exceptional cases.

In reply, learned State Counsel as well counsel for the respondent-accused has submitted that the order passed by the revisional Court is perfectly legal as the Investigating Officer has not relied upon the original rent receipts which are the part of the record in the suit filed by the petitioner-complainant against the aforesaid Vijay Kumar a tenant on the third shop. It is also submitted that, during the course of investigation, no effort was made by the Police to investigate the judicial file of the rent petition titled as *Inderjit vs. Vijay Kumar* and the certified copy of the rent petition and, the

alleged, forged and fabricated receipts which are available on the Court, were never obtained by the Investigating Officer. It is also submitted that even the procedure followed for comparison for the alleged forged and fabricated receipts of the hand writing expert to tally with the sale deed of 1972 is not correct as the photographs of the signatures of Amar Nath and Amar Kumar appearing on the sale deed was never obtained and there was every possibility that the signatures appended by 1972 may differ with his own signatures after lapse of 30 years later. It is also submitted that, during the inquiry, only photocopies of alleged receipts were taken and no efforts were made to ascertain whether photocopies produced before him are the same which were, in fact, produced in the Court of Rent Controller and, accordingly, the comparison of the hand writing on the receipts should have been done with the admitted signatures of its executant. It is also submitted that the respondent-complainant though raised a specific objection in the grounds of appeal before the Additional Sessions Judge that the trial Court has ignored the provisions of Section 195 Cr.P.C. as the forgery, if any, committed during the Court proceedings and without sanction of the Court, no FIR could be registered in view of the bar under Section 195(1)(b)(ii) of Cr.P.C. However, the revisional Court has not recorded a finding on the same.

After hearing the learned counsel for the parties, I find no merit in the present petition. The revisional Court has neither allowed

the revision petition on merits nor has passed any order acquitting the respondents- accused which may prejudice the rights of the petitioner. The trial Court, while framing the charges, has not taken into consideration the findings of the Inquiry Officer, on the basis of which the report under Section 173 Cr.P.C. was submitted against respondent No.2, is not supported by any document on record. The objection raised by respondent No.2 regarding bar under Section 195 Cr.P.C. has also not been considered, while framing the charges.

Keeping in view the facts and circumstances of the present case, no ground for interference is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

September 04, 2017

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Whether speaking/reasoned: Yes

Whether Reportable: Yes