

237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46667-2016(O&M)

Date of decision :20.09.2017

Jaswant Singh

..... Petitioner

versus

State of Punjab

..... Respondents

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

Present: Mr.B.S.Bhalla, Advocate for the petitioner.

Mr.Ramandeep Sandhu, Sr. DAG, Punjab.

A.B.CHAUDHARI, J. (Oral)

Heard learned counsel for the rival parties.

The challenge in the present petition is to the order dated 03.09.2016 passed by the learned trial Judge by which he declined to accept the plea of the original accused, the petitioner to proceed against the witnesses in view of the provisions of Section 340 of the Cr.P.C.

Learned counsel for the petitioner has vehemently argued and drawn my attention to para 19 of the judgment under which he was acquitted and contended that there is a clear finding that the witnesses were found to have been creating false evidence against the petitioner. He has submitted that in the wake of the said findings the trial Court ought to have exercised the powers under Section 340 Cr.P.C. He has further pointed out the specific discussion of the falsity of evidence. Learned counsel for the

petitioner has taken me through the entire inconsistencies in the evidence of the prosecution witnesses as recorded by the trial Court. In that context it is necessary for me to reproduce the following paragraphs of the judgment passed by the trial Court:-

“ 14. *Perusal of evidence of second complainant Amrik Singh, PW7 Jatinder Kaur and Amarjit Kaur PW8 shows that they had needed copy of Jamabandi for raising loan from Punjab Gramin Bank and allegedly they had contacted accused Jaswant Singh on 25.05.2010 in this regard, when Rs. 600/- are alleged to be paid as bribe. Their evidence has been belied by PW2 Sarup Singh, Manager, Punjab Gramin Bank Balkhandi, who has admitted in clear and candid words that copy of relevant jamabandi is Ex.PA and on basis of this jamabandi, Amarjit Kaur and Jatinder Kaur had mortgaged the property with the bank on 20.5.2010. So, there was no occasion with complainants to approach accused on 25.5.2010 for obtaining copy of jamabandi to raise loan from bank and payment of bribe of Rs. 1600/- and this belies entire story put forth by them.*

15. *..... Entry proved by this person is Ex.PB and it shows that money was received by Pritam Singh from him by telling that it is required for Bhog ceremony of Natha Singh. So, it is not believable that money lent by this person was paid to accused as alleged.*

16. *PW4 Sukhchain Singh has been introduced as an independent witness for payment of Rs. 1000/- to accused Jaswant Singh on 25.05.2010 by Amrik Singh. His evidence can be brushed aside by simply observing that complainants in their complaint Ex.PC have nowhere pleaded that this gentleman was present with them at the time of payment of Rs. 1000/- to accused on 25.05.2010. His statement becomes unbelievable for one more reason because in his affidavit Ex.D1, he has not mentioned any date of alleged payment and as per version of*

complaint, amount paid was Rs. 1600/-.”

The said discussion made by learned trial Court, in my opinion, could not lead or jump to the conclusion that the witnesses have been creating false evidence. The mere fact that the trial Court did not accept the evidence of the witnesses does not necessarily mean that the witnesses have given false evidence before the Court. In the process of analysis of evidence under which the Court may accept or may not accept the evidence of a witness, but an inevitable conclusion cannot be drawn that the witnesses have recorded false evidence. This Court is entitled to find out whether the finding given in para 19 of the judgment is based on any such aspect about falsity of evidence. This Court finds that this is not so. That apart, the trial Court has stated in the impugned order that it was legal and proper to have filed this application before the same Court that means the same Presiding Officer. The issue appears to be debatable but since I have recorded a finding that there is no material on record to show that the witnesses had created false evidence, it would not be appropriate to proceed against the witnesses.

Learned counsel for the petitioner has submitted that respondents Sukhdev Singh, DSP Vigilance Ferozepur (Retd.) and Ramandeep Singh, DSP Vigilance, Ferozepur had earlier initiated prosecution against the petitioner which culminated into his acquittal vide order dated 24.12.2002. Thereafter in the present FIR proceedings have been initiated. Looking at the judgment passed by the trial Court in which the petitioner was acquitted, there is no such finding recorded and thus it would not be possible for this Court to record any finding to that effect.

In the result the petition will have to be dismissed.

The petition is, therefore, dismissed.

(A.B.CHAUDHARI)
JUDGE

20.09. 2017
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No