

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

(i)

CRR No.1449 of 2016 (O&M)

Har Amritpal Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

(ii)

CRR No.1450 of 2016 (O&M)

Har Amritpal Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

Date of Decision: March 20, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Veneet Sharma, Advocate
for the petitioner.

Mr.K.S.Aulakh, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Premjit Kalai, Advocate
for respondent No.2.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected revisions as the point for determination in both the cases is the same.

The above-mentioned revision petitions have been filed by petitioner Har Amritpal Singh against respondents State of Punjab, Jagtar

Singh and Balkar Singh, since deceased (through LRs) challenging the

impugned judgments of conviction and order of sentence dated 04.06.2014 passed by learned Judicial Magistrate First Class, Amritsar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year under Section 138 of the Negotiable Instruments Act and further to pay compensation of ₹40 lakhs each to the complainant and also challenging the judgments dated 23.03.2016 passed by learned Addl. Sessions Judge, Amritsar, vide which the appeals filed by petitioner were dismissed.

Notice of motion was issued and learned State counsel as well as learned counsel for private respondent appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that complaints were filed by complainants Balkar Singh and Jagtar Singh against accused Har Amritpal Singh under Section 138 of the Negotiable Instruments Act. The case of the complainants is that one Bhupinder Kaur and Dilbagh Singh were owners of the land situated at Village Jhitee Kalan and Rakh Jhitee and they firstly entered into an agreement to sell of the said land to accused Har Amritpal Singh. Accused Har Amritpal Singh further entered into an agreement to sell the said land to complainants but later on the title of the said land was not clear and it was found defected. The sale deed of the said land could not be executed in favour of accused and accused could not execute the sale deed in favour of complainants. An amount of ₹80,00,000/- was paid by complainants to accused. Thereafter the complainants demanded money

from the accused. The accused in order to discharge his legal debt/liability,

to repay the said amount, issued cheques bearing No.442802 and 442803 each dated 02.06.2011 for a sum of Rs.40,00,000/- each drawn on Bank of India, City Center Branch, Amritsar, in favour of complainants, with the assurance that the said cheques will be duly encashed as and when the same will be presented to the bank. The complainants presented the said cheques through their banker i.e. Punjab National Bank, Amritsar, but the said cheques were dishonoured with the remarks "Insufficient Funds" vide memo dated 10.06.2011. Thereafter the complainants served the accused with legal notices dated 22.06.2011 through Registered A.D. post but despite the service of legal notice, accused has failed to make the payment to complainants till date.

The accused denied the incriminating evidence produced against him and submitted that complainants have constituted a group of land mafia. No alleged amount was ever borrowed or received by him from the complainants and no cheques were issued in their favour. The signatures on the cheques are also forged and fabricated. The complainants with the help of police, got registered another false case with ulterior motive to harass him. The complainants also filed civil litigation at Civil Court, Ajnala.

In defence, accused examined Harpreet Sharma, Ahlamd, who brought produced the summoned file title as 'Har Amritpal Singh vs. Balkar Singh and others' and also proved the copy of civil suit. Har Amritpal Singh also stepped into the witness box himself and reiterated the defence version. He also proved on record certified copies of civil suit, written statements, agreement to sell etc.

convicted and sentenced the petitioner as stated above. Appeals were filed by the petitioner and the same were dismissed by learned Addl. Sessions Judge, Amritsar, vide judgment dated 23.03.2016.

Aggrieved from the above-said judgments, present revision petitions have been filed.

At the time of arguments, nothing has been argued to show that how the concurrent findings given by the Courts below are perverse or against the evidence or law. Nothing has been pointed out which material evidence has been misread or which material evidence has not been considered by the Courts below. The perusal of the impugned judgments shows that the findings have been given after appreciating and re-appreciating the evidence correctly and in right perspective.

The perusal of the findings further shows that the accused has placed on record the copy of the agreement to sell dated 02.10.2012 executed by him executed in favour of complainants as Ex.D4. Accused has admitted his signatures on the same. The cheques in question found mention in the said agreement to sell dated 02.12.2010. Learned trial Court also observed that the accused has failed to explain that if he handed over the cheques to complainants under threat and pressure of police in the year 2011, then how the same found mentioned in the agreement to sell Ex.D5 which was executed in the year 2010. The Court further held that agreement to sell dated 02.12.2010 falsifies the contention of the accused of having given the same to complainants when he was in the custody of police in connection with in the year 2011 in the FIR case. No complaint etc. has been filed before the higher police authorities that the cheques were taken under police pressure.

In view of all this, the trial Court has given the findings that the accused failed to rebut the presumption under Section 139 of the Negotiable Instruments Act. The presumption is attached to the cheques that these have been issued in discharge of legally enforceable debt.

In view of the above discussion, I find that the findings have been given by both the Courts below by appreciating the evidence in right perspective. These findings are as per evidence and law. In no way, the judgments of conviction and order of sentence can be held as perverse or illegal. Therefore, the impugned judgments of conviction and order of sentence passed by both the Courts below are upheld.

Resultantly, finding no merit in both the revision petitions, the same are dismissed.

However, as per separate orders of even date, the applications for concurrence of sentences in both the cases have been allowed. Therefore, it is ordered that petitioner Har Amritpal Singh be set at liberty forthwith in both the cases on completion of one year of sentence, if his custody is not required in connection with any other case.

March 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No