

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

CRR No.2819 of 2014 (O&M)
Date of Decision: August 11, 2017

Chhote Lal

...Petitioner

VERSUS

Kishan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashwani Bhardwaj, Advocate
for the petitioner.

INDERJIT SINGH, J.

CRM No.27711 of 2014

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 51 days in filing the revision petition, is condoned.

CRR No.2819 of 2014

The present revision has been filed by the petitioner Chhote Lal against Kishan and other respondents, challenging the impugned judgment dated 09.03.2012 passed by learned Chief Judicial Magistrate, Narnaul, vide which the accused-respondents were acquitted and also challenging judgment dated 22.04.2014 passed by learned Sessions Judge, Narnaul, vide which the appeal filed by the petitioner-complainant against the judgment of acquittal was dismissed.

through the record.

The perusal of the record shows that challan was presented against accused Kishan and Parshant Pal in case FIR No.226 dated 14.09.2006 under Sections 406 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned CJM, Narnaul, are as under:-

“2. Brief facts of the case of the prosecution are that on 14.9.05 complainant Chhote Lal visited in the police station and moved an application to Sube Singh SI wherein he stated that he was bona fide resident of Mohalla Kayasthwara Narnaul and was running a jewellery shop in Pull Bazar, Narnaul. He has kept Kishan and his younger brother Gopi, residents of Calcutta in his shop for preparation of the gold ornaments. He used to give gold to them, thereafter, they prepared gold ornaments and handed over to the complainant and their brother-in-law Basant also used to reside there. His cousin Anupa was also residing there. Bhola and Tapan were also residing there. He had prepared a record to this effect. He has given 210 gram of gold and Rs.2050/- cash to the accused. It was incident of 6.6.05 at about 8.30 P.M. when he had given gold and the cash. Thereafter, Gopi and Kishan fled away, but his brother Basant Anupa and Bhola have been residing there. He searched them on their own level. Necessary action be taken against them. Endorsement was made by Jagdish ASI and formal FIR has been registered. The investigation of this case was conducted by Jagdish ASI. Further investigation of this case was conducted by Mahavir Prasad ASI. After collecting necessary material against the accused, Kishan and Gopi were arrested on 6.8.06 and Basant @ Parshant Pal was arrested on 22.8.06. Accused Kishan made a disclosure statement wherein he stated that he has taken 210 gram of gold and Rs.2050/- from Chhote Lal for preparation of the gold ornaments. He has given gold to Parshant Pal. Now Parshant Pal has refused to give golden ornaments. Parshant Pal has also made a disclosure statement wherein he stated that he has taken 210 gram gold in installment alongwith Rs.2050/-. Parshant Pal was also arrested in this case. After collecting necessary material against the accused and completion of investigation and other usual formalities of the case, challan under Section 173 Cr.P.C. was submitted before the court by SHO, P.S. City Narnaul.”

The charges were framed by the Court under Section 406 IPC,

to which, the accused pleaded not guilty and claimed trial. It is pertinent to mention here that accused Parshant Pal was discharged on 29.05.2007.

In support of its case, prosecution examined PW-1 SI Mahavir Prasad, Retd., PW-2 EHC Satish Kumar, PW-3 Chhote Lal, PW-4 ASI Nand Lal, Retd.

In the statement under Section 313 Cr.P.C., the accused pleaded his innocence and false implication.

Learned CJM, Narnaul, on the basis of the evidence, acquitted the accused vide judgment dated 09.03.2012. An appeal was filed by the petitioner before learned Court of Session and learned Sessions Judge, Narnaul, vide impugned judgment dated 22.04.2014, dismissed the appeal.

Aggrieved from the above-said judgments, present revision has been filed by the petitioner-complainant.

From the perusal of the record and the judgments passed by the Courts below, I find that the findings given by both the Courts below are as per evidence and law. These findings cannot be held as perverse or illegal. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. This is a revision petition and this Court is not to re-appreciate the evidence like Court of an appeal.

From the record, firstly, I find that occurrence took place on 06.06.2005 and the complainant visited the police station on 14.09.2005. There is long unexplained delay of more than three months in reporting the matter. Secondly, there is no documents on record to support the complainant's version and to prove the entrustment of gold to the accused.

the record in respect of taking and giving of gold but no record was put up before the Court. The documents Mark A and B, which are photocopies cannot be looked into evidence. Therefore, there is no document to support the oral version of the complainant.

Learned Magistrate also discussed the fact that case of the prosecution is based on disclosure statement but in view of the disclosure statement, no recovery has been effected, therefore, disclosure statement cannot be looked into being inadmissible and being statement before the police.

From the record, I find that the accused has been rightly acquitted. The impugned judgments passed by the Courts below, are correct, as per law and evidence and do not require any interference from this Court.

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

August 11, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No