

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

**CRR No.2924 of 2015 (O&M)  
Date of Decision: August 22, 2017**

Jasvir Singh and another

...Petitioners

VERSUS

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.P.S.Khurana, Advocate  
for the petitioners.

Mr.Gaurav Garg Dhuriwala, Sr.DAG, Punjab  
for the respondent-State.

Mr.Rahul Rampal, Advocate  
for respondent No.2.

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**INDERJIT SINGH, J.**

The present revision has been filed by the petitioners Jasvir Singh and Amarjit Singh against respondent State of Punjab, challenging the impugned judgment dated 13.07.2015 passed by learned Addl. Sessions Judge, Ludhiana, vide which the appeal filed by the petitioners against order dated 09.05.2014 passed by learned JMIC, Ludhiana, was allowed and the matter was remanded back to the trial Court to record the statements of the accused under Section 313 Cr.P.C. and to decide the case afresh after affording proper opportunity to the accused to lead defence evidence, if any.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondent No.2 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.

The brief facts of the case as noted down in the impugned judgment passed by learned Addl. Sessions Judge, Ludhiana, are as under:-

*“1. Gravamen as culled out from the story of the prosecution is that one application was moved by Sukhwinder Singh that Jasvir Singh and Amarjit Singh in criminal conspiracy with Tarsem Sharma, Advocate and others prepared and forged an affidavit dated 21.07.1999, which is shown alleged to be signed by him. Actually he never signed this affidavit dated 21.7.1999, Jasvir Singh and Amarjit Singh in Crl. conspiracy with each other forged the signatures of the applicant Sukhwinder Singh with intention to deceive him and with intention to grab the valuable property by way of cheating and on the basis of this forged and fabricated document they filed a civil suit for declaration which is pending in the court of Sh.Rakesh Kumar Sharma, Civil Judge, Ludhiana. The above said persons used this forged document as genuine document in the said court. The original forged document is in possession of Jasvir Singh and Amarjit Singh and prayed that a criminal case be registered against the accused persons. Thereafter investigation was conducted and after completion of investigation and other formalities challan against the accused was prepared and presented in the court.”*

The perusal of the record shows that Jasvir Singh and Amarjit Singh were convicted under Sections 467, 468 and 471 IPC and were sentenced accordingly by learned trial Court on the basis of affidavit Ex.PB, which is stated to be a forged document. Learned Addl. Sessions Judge, Ludhiana, after discussing in detail, found that the document Ex.PB has not been put to the accused during the statement recorded under Section 313 Cr.P.C.

Admittedly, this document Ex.PB has not been put to the accused at the time of recording of statement under Section 313 Cr.P.C.

Learned counsel for the petitioners stated that petitioners are entitled to acquittal on this ground and the matter cannot be remanded back from the stage of recording the statements of the accused under Section 313 Cr.P.C.

On the other hand, learned counsel for respondent No.2 cited judgment passed by the Hon'ble Patna High Court in ***State of Bihar vs. Sanjay Tiwary, 2008 CriLJ 4410***, in which the accused persons were convicted by trial Court for committing murder of deceased and removing articles from his house and the accused raised objections in respect of report of finger print expert but the same was ignored by the trial Court, it is held that trial Court should have summoned the expert and examined him to be satisfied that the photographs and specimen etc. had been duly submitted to finger print bureau. It is further held that trial Court also failed to perform its duty under Section 313 Cr.P.C. in a proper manner and the matter was remitted back. Learned counsel for respondent No.2 further relied upon the judgment passed by Hon'ble Bombay High in ***Bhavlal Shanker Mahajan vs. State of Maharashtra, 1997 CriLJ 3060***, in which it is held that the examination of accused under Section 313 Cr.P.C. carried out during the course of trial was not proper and sufficient, therefore, prejudice is caused to the accused for denial of opportunity to explain circumstances appearing against him and the matter was remanded for retrial of accused from the stage of recording statements under Section 313 Cr.P.C. in exercise of appellate jurisdiction.

In view of the above discussion and in view of the judgments cited above, I find that no illegality has been committed by learned Addl. Sessions Judge, Ludhiana, while remanding back the case to the trial Court

from the stage of recording of statement under Section 313 Cr.P.C.

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

August 22, 2017  
Vgulati

(INDERJIT SINGH)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes  
No