

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

**CRR No.226 of 2016 (O&M)
Date of Decision: February 17, 2017**

Jagraj Singh and another

...Petitioner

VERSUS

Iqbal Kishan and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Wadhawan, Advocate
for the petitioners.

Mr.P.B.S.Goraya, Advocate
for respondent No.1.

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

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Jagraj Singh and Surjit Singh against respondents Iqbal Kishan and State of Punjab, challenging the impugned judgment of conviction dated 14.09.2015 and order of sentence dated 16.09.2015 passed by learned Addl. Sessions Judge, Amritsar, vide which the appeal filed by complainant-respondent No.1 was accepted and petitioners along with co-accused were convicted under Sections 467, 468, 471 and 120-B IPC and sentenced to undergo rigorous imprisonment for a maximum period of three years under Sections 467 and 120-B IPC along with fine.

Notice of motion was issued. Learned counsel for respondent

No.1 as well as learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.98 dated 09.04.2007. The brief facts of the case as noted down in the judgment passed by learned JMIC, Amritsar, are as under:-

“2. Briefly the facts of the prosecution case are that the present case was registered on the complaint made by Iqbal Krishan to the effect that previously Sh.Gurpartap Singh Salwan son of Nar Singh Dass was one owner of the house bearing No.1333, Old Main Bazar, Verka, Tehsil and District Amritsar. Gurpartap Singh has since died and is succeeded by his widow Dr.Jagjit Kaur Salwan. That Dr.Jagjit Kaur has already given a general power of attorney to the him for looking after the property belonging to her. Malkiat Singh has filed any injunction suit against the petitioner and his father Joginder Pal Singh stating therein that he is a tenant of Gurpartap Singh and house tax notice was also issued by the Municipal Corporation in the name of Gurpartar Singh. From the perusal of the plaint filed by Malkiat Singh it is evident that Malkiat Singh has stating that he is a tenant in two rooms of the property bearing No.1333 and this fact was also supported by the notice issued by the Municipal Corporation showing therein that Malkiat Singh is in possession of two rooms as tenant. Complainant who is the general attorney of Dr.Jagjit Kaur has come to k now that Jugraj Singh @ Raju and Swaraj Singh @ Sukha have prepared a forged sale deed in favour of Surjit Singh son of Swaran Singh resident of Village Bhangali, Tehsil and District Ferozepur vide sale deed dated 04.10.2006 in connivance with the marginal witnesses i.e. Nambardar Surta Singh Village Guru-Ki-Wadali, District Amrtisar, Rakesh Kumar son of Jagdish Chand resident of Verka, Ajit Nagar, Amritsar. Malkiat Singh councilor of Ward No.60 has also wrongly issued a certificate in favour of Jugraj Singh and Swaraj Singh stating therein that the house belonging to Dr.Jagjir Kaur is the ancestral property of Jugraj Singh and Swaraj Singh. So all these persons in connivance with each other have hatched a conspiracy to grab the property belong to Dr.Jagjit Kaur Salwan widow of Gurpartap Singh Salwan. All the accused including marginal witnesses i.e. Nambardar Surta Singh of Guru-Ki-Wadali, Rakesh Kumar son of Jagdish Kumar resident of Village Verka, Ajit Nagar, Amritsar after hatching a criminal conspiracy with the intention of using the aforesaid sale deed for the purpose of cheating forgedly executed the said sale deed. The aforesaid accused Jugraj Singh and Swaraj Singh otherwise have not right, title or interest with the house covered under the sale deed and had

executed the sale deed fraudulently and dishonestly with the intention of defeat the valuable rights of the original owner/applicant. It is, therefore, prayed that necessary action may be taken against all the accused including the marginal witnesses Nambardar Surta Singh of Guru-Ki-Wadali, District Amritsar. Rakesh Kumar son of Jagdish Chand resident of Verka, Amritsar and Malkiat Singh councilor of Ward No.60 Amritsar. On the basis of aforesaid complaint investigation was started. Accused were arrested. After completion of investigation, the challan against the accused was presented in the Court.”

Learned JMIC, Amritsar, after appreciating the evidence, acquitted the petitioners. An appeal was filed by the complainant-respondent No.1 against the judgment of acquittal and the same was accepted by learned Addl. Sessions Judge, Amritsar and the petitioners were convicted and sentenced vide judgment of conviction dated 14.09.2016 and order of sentence dated 16.09.2015 as stated above.

Aggrieved from the judgment passed by the lower Appellate Court, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings given by learned Addl. Sessions Judge, Amritsar regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioners are only bread earners of the family and suffering from the criminal proceedings since 2007 and petitioner Jagraj Singh has already undergone actual sentence of 1 year 7 months and 21 days, whereas petitioner Surjit Singh has already undergone actual sentence of 1 year 10 months and 24 days including remissions.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 14.09.2015 passed by learned Addl. Sessions Judge, Amritsar, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are stated to be only bread earners of the family and are facing long protracted criminal proceedings since 2007 i.e. for the last about 10 years and also in view of the fact that petitioner Jagraj Singh has already undergone actual sentence of 1 year 7 months and 21 days and petitioner Surjit Singh has already undergone actual sentence of 1 year 10 months and 24 days (including remissions of 2 months 19 days) , the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, the sentence of fine and in default thereof, shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioners, Jagraj Singh and Surjit Singh, who are in custody, be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid.

February 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No