

CRR-3554-2015

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

**CRR-3554-2015 (O & M)
Date of Decision:04.10.2017**

Saroop Singh

... Petitioner

Versus

Life Insurance Corporation of India and another

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. B.D.Sharma, Advocate,
for the petitioner.

Mr. Himanshu Chhabra, Advocate,
for respondent No.1.

Mr. Ayush Sarna, AAG, Punjab.

INDERJIT SINGH, J.

The present revision has been filed by petitioner-Saroop Singh against respondents-Life Insurance Corporation of India and State of Punjab, under Section 401 Cr.P.C. challenging the impugned judgment dated 14.08.2015 passed by learned Additional Sessions Judge, Amritsar vide which judgment dated 10.09.2009 passed by learned Chief Judicial Magistrate, Amritsar, acquitting the petitioner-accused, was set aside and matter was remanded back to the trial Court for fresh decision.

Notice of motion was issued. Respondent No.1 appeared through its counsel and learned State counsel put in appearance on behalf of respondent No.2-State. They contested this revision.

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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 challan was presented against the petitioner in FIR No.404 dated 02.11.2003, under Sections 457/381 IPC, registered at Police Station Civil Lines, Amritsar. The brief facts of the case, as noted down in the judgment passed by learned Chief Judicial Magistrate, Amritsar, are as under:

“2. Briefly, the case of the prosecution is that the instant case was registered on the statement of Prem Chand Sharma son of Ram Chand Sharma, r/o village Riwar, Distt. Kulu, Himachal Pradesh, wherein alleged that he is working as branch manager in the Life Insurance Corporation of India, Albert Road, Amritsar. On 19.5.03, he joined the said branch and used to come in the office in the morning and close the office in the evening and went to his house 614, Basant Avenue and used to come at 9.00 A.M. and after handing over the key of the office to sweeper, go back to his house and again come in the office at 10.00 A.M. On 31.10.03, being the last day of the month, they worked in the office till 10.00 P.M. and the entire amount collected on that day was locked in safe custody. The said amount was Rs.4,89,901.40 p. and thereafter cash safe was locked. Then chest was also locked and its one key was handed over to Sanjay Sharma and second key was handed over to Sushil Verma. Outer gate was also locked and its one key was retained by complainant and other was given to Sanjay Sharma. On 1.11.03, he came in the morning at 9.00 A.M. in the office and handed over the key to sweeper Raj Kumar and went to his home and he was informed telephonically by Karan Kumar that lock of the main gate was broken and similarly lock of the chest was also broken and he immediately came and they enquired and found that cash lying in the safe was stolen by unknown person. Underneath the statement of the complainant, SHO made an endorsement and ruqu was sent to the police station for registration of case, whereupon formal FIR under Section 457/380 of IPC was lodged. On 2.11.03, being reason firstly the DDR under the Punjab Police Rule 24.4 was recorded and for that reason, case was registered on 2.11.03. During investigation, rough site plan of the place of occurrence was prepared and accused Saroop Singh son of Ram Singh was arrested

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in this case and he made a disclosure statement, which was recorded separately, wherein deposed that he opened the safe of the LIC office, Albert Road, Amritsar with duplicate keys and thereafter, he stolen the cash amount of Rs.4,89,901.40 p. and accordingly, he got recovered the said cash amount, which was taken into police possession vide separate recovery memo, which was attested by SI Kuldeep Kumar and C. Hardeep Singh and rough site plan of the recovery place was separately prepared. Arrest memo of the accused was prepared and statements of witnesses under Section 161 Cr.P.C. recorded separately. After formal investigation, the report under Section 173 Cr.P.C. filed by SHO in the Court of Illaqa Magistrate.”

Learned Chief Judicial Magistrate, Amritsar, after appreciating the evidence, acquitted the petitioner-accused, vide judgment dated 10.09.2009, as the prosecution failed to examine the Investigating Officer, who got recovered the stolen currency notes from the accused nor the prosecution abled to examine any of the marginal witnesses i.e. SI Kuldeep Kumar and Constable Hardeep Singh, in whose presence, recovery was made.

Feeling aggrieved from the said judgment, complainant-respondent No.1 filed an appeal before learned Additional Sessions Judge, Amritsar, which was accepted vide impugned judgment dated 14.08.2015 and matter was remanded back to the trial Court to decide the case afresh after affording opportunity to the complainant to lead evidence and the prosecution was also directed to make every possible effort to procure the presence of necessary witnesses.

Aggrieved from the above said judgment dated 14.08.2015, the present revision petition has been filed.

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After going through the record, I find that public money is involved in the present case and material witnesses i.e. Investigating Officer etc. have not been examined during the trial and, therefore, learned Additional Sessions Judge held that the accused was acquitted just due to lack of evidence. Learned Additional Sessions Judge further held that the police officials are such witnesses that their presence can be procured, but that effort was not made by the prosecution. Even the counsel of LIC office brought the fact before the Appellate Court that the present case is not a case of ordinary theft, rather an employee of LIC office alleged to have committed theft and from his possession, the stolen money is recovered.

Perusal of the findings given by learned Additional Sessions Judge, Amritsar shows that the same are correct, as per evidence and law. No illegality has been committed by the Appellate Court while passing the impugned judgment.

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

04.10.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No