

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

**CRR No.2968 of 2016 (O&M)
Date of Decision: March 16, 2017**

Mohinder Singh

...Petitioner

VERSUS

Ranjit Bhatti and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ajay Singla, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mohinder Singh against respondents Ranjit Bhatti and State of Punjab, challenging the impugned judgment dated 16.10.2014 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which accused-respondent was acquitted and also challenging the judgment dated 26.04.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioner was also dismissed.

From the record, I find that the challan was presented against accused-respondent in case FIR No.156 dated 28.11.2009. The brief facts of the case as noted down in the judgment passed by learned JMJC, Jalandhar, are as under:-

“2. As per the story of prosecution a complaint was given by Mohinder Singh son of Darshan Singh resident of Village Kang Sahbo to Assistant Superintendent of Police (Urban)

against Ranjit Bhatti alias Rana son of Satpal Bhatti resident of Village Barsal, Police Station Sadar, District Jalandhar, who thereby stated that he is permanent resident of Village Kang Sahbo, Tehsil Nakodar, District Jalandhar. Harpal Singh son of Dayal Singh resident of Village Jian, District Hoshiarpur is his close relative who is having plot measuring seven marlas, situated at Kalgidhar Avenue, Mithapur Road, Jalandhar. Harpal Singh, who is now residing in U.K. approached him about the construction over the above said plot after getting sanctioned site plan from the concerned corporation. The complainant for getting sanctioned the site plan for the construction of the said Kothi talked about the same with Rajit Bhatti alias Rana who is a taxi driver and personally known to the complainant and is resident of Village Barsala, Police Station Lambra, District Jalandhar. Ranjit Singh Bhatti told him that he has many relations with the officials of Municipal Corporation, Jalandhar especially with the MTO or ATP of the Municipal Corporation, Jalandhar, because his mother is Sarpanch of the Village and he will get the site plan sanctioned from the Corporation. He demanded Rs. 100000/- (Rupees one lac) from the complainant and assured him that the plan will be sanctioned within twenty days. The amount was to be given in advance. On 30.12.2007 complainant gave Rs. 100000/- in advance to accused Ravinder Bhatti and he also handed over necessary documents for sanction of site plan by the concerned authority. After one month the complainant approached Ranjit Bhatti regarding the site plan, but he kept the matter lingering on on one pretext or the other. Complainant visited many a times to the house of accused and he every time assured the complainant that the site plan is at the last stage and only the sign of Commissioner Corporation is remaining and the same would be sanctioned very soon. One day complainant visited the office of MTP/ATP of Municipal Corporation, Jalandhar and found that the file of said Kothi was never submitted by Ranjit Bhatti till date. He again visited the house of Ranjit Bhatti along with his friend Major Singh and asked him about the file and told him that he has not submitted any document in Municipal Corporation. At this accused Ranjit Bhatti asked them to go away from his house and he denied the payment of any single penny to him. Complainant again approached Ranjit Bhatti with 4/5 members of village, but he denied any payment and threatened the complainant with dire consequences. However, thereafter he orally agreed that he will return the money within the period of 5/6 months, but till date not even a single penny has been returned by him. So, action be taken against him. On the complaint of the complainant an enquiry was conducted by SHOPolice Station Lambra and SP(D), Jalandhar and recommended for registration of case against the accused and case under Section 406 and 420 of IPC accordingly the present case was registered against the accused. Accused was arrested

in the present. Further investigation was carried on. Statements of witnesses were recorded and after the completion of investigation, challan against the accused as per the provision of Section 173 of Code of Criminal Procedure, 1973 (in short Cr.P.C.) filed in the court.”

Learned JMIC, Jalandhar, after appreciating the evidence, acquitted the accused-respondent as stated above. An appeal was filed by the petitioner and the same was also dismissed by learned Addl. Sessions Judge, Jalandhar, vide judgment dated 26.04.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that both the Courts below have given concurrent findings of fact. In no way, the findings can be held as perverse or against the evidence or law. 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.

The perusal of the FIR itself shows that version of the complainant looks improbable that person would give ₹1 lakh to a taxi driver for getting sanctioned site plan from the Municipal Corporation. How a taxi driver can get the site plan sanctioned from the office of Municipal Corporation. Nothing has been shown as to whether this taxi driver is relative of any officer of the Municipal Corporation. Further, as per the case, amount has been given on 30.12.2007 and the site plan was to be sanctioned within 20 days, as promised by the accused as per the prosecution version but this FIR has been got registered on 28.11.2009 i.e.

after about two years. There is nothing on the record to show as to why the complainant kept silent for two years.

Learned trial Court after going through the evidence held that sale deed which is in favour of Harpal Singh Ex.PW6/A/1 shows that it was not for the plot, rather it was for a constructed property consisting of two rooms, drawing room, kitchen, bathroom at ground floor and two rooms, kitchen and bathroom at first floor. When the property vested in Harpal Singh was already constructed property, then for what purpose the site plan was to be got sanctioned by the complainant, is not clear. The Court further held that the perusal of the account statement of complainant, which is Ex. PW7/A, shows that there is no entry of withdrawal on 30.12.2007 shown in the account statement of the complainant. The date when the amount was handed over has been mentioned by the complainant as well as witness as 30.12.2007 and not 03.12.2007. The Court below also held that eye witness is also not reliable. He stated in his examination-in-chief that his uncle Pargat Singh told him about the payment made by Mohinder Singh to Ranjit Bhatti. Therefore, he is not an eye witness, rather he has deposed on the basis of hear-say evidence. PW-3 Murshid was also not relied upon by the Court below as he stated that payment was handed over jointly to Daljit, Ranjit Bhatti and Satpal but this is not the case of the prosecution.

Keeping in view all these facts, I find that learned Courts below have rightly acquitted the accused. The findings have been given while appreciating the evidence in right perspective.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per evidence and law

and do not require any interference from this Court.

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

March 16, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No