

CRR-4639-2015

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

CRR-4639-2015 (O & M)

Date of Decision: 06.03.2017

Ashok Kumar Chugh

... Petitioner

Versus

Vishwamitter and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Ramesh Sharma, Advocate,
for the petitioner.

INDERJIT SINGH, J.

Petitioner-Ashok Kumar Chugh has filed this revision under Sections 397 and 401 Cr.P.C. against respondents-Vishwamitter, Kapil Dev Chugh and State of Haryana challenging the judgment dated 19.07.2014 passed by learned Additional Chief Judicial Magistrate, Rohtak vide which respondent Nos.1 and 2 were acquitted and also challenging the judgment dated 27.08.2015 passed by learned Additional Sessions Judge, Rohtak whereby appeal filed by the petitioner was dismissed.

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

From the record, I find that challan was presented against respondent Nos.1 and 2 in FIR No.117 dated 21.09.2006, registered at Police Station City Rohtak, under Sections 420, 467, 468, 471 and 406

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IPC. The brief facts of the case, as noted down in the judgment passed by learned Additional Chief Judicial Magistrate, Rohtak are as under:

“2. Shorn of unnecessary details, the facts of the prosecution case are that the present case has been registered on the basis of application moved by Ashok Kumar Chugh son of Har Kishan Lal, resident of Shori Cloth Market, Rohtak before Station House Officer, Police Station Officer, Rohtak wherein the complainant had maintained that he was resident of Shori Cloth Market, Rohtak and was running cloth business. On 1.4.1997, a partnership deed was executed between him and his brother namely Vishwamitter for running the cloth business under the name and style of M/s Har Kishan Lal and Sons, wherein the complainant was having 50% share. Besides the said firm namely Har Kishan Lal and Sons, the complainant was running one more shop under the name and style of M/s Ashok Kumar and Company. On 8.3.2004, one cloth bale had come from Surat for the firm M/s Har Kishan Lal and Sons and the complainant had placed the said cloth bale in his second shop namely Ashok Kumar and Company and had asked the transporter that both the shops were belonging to him. However, on the next day, the transporter had come to his shop for taking back the said cloth bale. Although, the complainant had tried to satisfy him that other shop working under the name and style of M/s Har Kishan Lal and Sons was also their joint shop but the transporter did not relent and had stated that the complainant's brother Vishwamitter had disclosed that Ashok Kumar was not having any share in the shop titled as M/s Har Kishan Lal and Sons, whereupon the complainant

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had made a query from his brother Vishwamitter, who had disclosed that his partnership was dissolved and presently complainant was not having any share in the shop i.e. M/s Har Kishan Lal and Sons. It has been further averred in the complaint that no partition had taken place between them and his fictitious signatures were appended on the dissolution deed by his brothers Vishwamitter and K.D.Chugh and they had fabricated a dissolution deed and had ousted him from the firm. The application was moved by the complainant before Station House Officer, P.S.City Rohtak on 18.08.2006, whereupon a preliminary enquiry was conducted wherein statement of Sanjeev Kumar son of Kamal Kishore Arora resident of Rohtak, statement of complainant Ashok Kumar Chugh and statement of Vishwamitter accused were recorded and thereafter, Enquiry Officer had submitted the report that prima facie, the facts make out a criminal case punishable under Sections 420, 467, 468, 471, 406 of the Indian Penal Code whereupon the case was registered against the accused. After lodging of the FIR, photostat copy of the dissolution deed was taken into possession and specimen signatures of complainant Ashok Kumar were taken in the Court. After effecting of the arrest of the accused Vishwamitter, an application had been moved in the Court for taking his specimen signatures whereupon accused Vishwamitter had made a statement that he had no objection in giving his specimen signatures. Similarly, another application had been moved by the Investigating Officer for taking specimen signatures of accused K.D.Chugh son of Har Kishan Lal, who had also made a statement in the Court that he had no objection in giving his specimen handwriting/signatures.

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Thereafter, the statements of the witnesses were recorded and after completion of the investigation, challan was presented in the court against the accused for trial.”

In support of its case, the prosecution examined as many as seven witnesses.

Learned Additional Chief Judicial Magistrate, after appreciating the evidence, acquitted respondent Nos.1 and 2/accused from the charges levelled against them, vide impugned judgment dated 19.07.2014. An appeal was filed by the petitioner and the same was dismissed by learned Additional Sessions Judge, Rohtak vide impugned judgment dated 27.08.2015.

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

I have gone through the judgments passed by the courts below.

Perusal of the record shows that the prosecution has examined PW 1 complainant-Ashok Kumar, PW 2 Retired DSP Chander Bhan, PW 3 Sanjeev Kumar, PW 4 SI Ishwar Singh, PW 5 Inspector Vijay Malik, PW 6 ASI Krishan Kumar, PW 7 Rohtash, Reader to Sh. Jagjeet Singh, the then learned Additional Sessions Judge, Rohtak and PW 8 Retired ASI Randhir Singh. Except the oral statement of complainant, there is nothing on record to show that dissolution deed does not bear the signatures of the complainant. No handwriting expert has been examined to prove the same. Learned defence counsel before

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the trial Court argued that the civil court had also rejected the version of the complainant in totality of the circumstances. The trial Court after appreciating the evidence in right perspective held that in order to prove the guilt, it was imperative for the prosecution to establish that the signatures of the complainant on the alleged deed were fabricated and this fact could be established by obtaining a report from FSL, Madhuban or in the alternative opinion of some handwriting expert could also be taken. The trial Court also held that during investigation, specimen signatures of complainant-Ashok Kumar were taken in the Court and accused Vishwamitter had also made statement in the Court that he had no objection in giving specimen signatures. Similarly, statement of accused Kapil Dev Chugh was also recorded vide which he expressed his willingness to give his specimen handwriting and signatures and his statement to this effect was recorded in the Court on 10.04.2006. The trial Court also held that the disputed signatures of the complainant should have been got compared with his standard signatures either from FSL, Madhuban or from any Forensic Science Laboratory of the country. The trial Court also discussed other evidence brought on record. In application Ex.D-1, complainant-Ashok Kumar Chugh admitted that the firm M/s Har Kishan Lal and Sons was dissolved by way of the dissolution deed and copy of the dissolution deed has been supplied to the Manager, State Bank of India, Main Branch, Rohtak. On the basis of application Ex.D-1, the trial Court also held that it is an important

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document which clearly established that the complainant himself had admitted about the genuineness of the dissolution deed. He admitted while appearing as PW 1 that he moved the application Ex.D-1 and it bears his signatures.

Perusal of the record shows that the impugned judgments passed by the courts below are correct, as per evidence and law. The evidence has been appreciated by the courts below in right perspective. Moreover, this is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence, like Court of an appeal and this Court is only to see whether any finding is perverse or some material evidence has not been considered. In no way, the judgments passed by the courts below can be held as perverse. No illegality has been committed while passing the impugned judgments. At the time of arguments, learned counsel for the petitioner failed to point out as to which material evidence has been misread or which material evidence has not been considered by the courts below.

Therefore, from the above, I find that findings given by the courts below are correct and do not require any interference.

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

06.03.2017

parveen kumar

Whether speaking/reasoned
Whether reportable

: Yes
: No

**(INDERJIT SINGH)
JUDGE**