

..

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3860-2016 [O&M]
Date of Decision:- November 01, 2017

Balwant SinghPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. D.S.Gandhi, Advocate,
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab,
for the respondent State.

SHEKHER DHAWAN, J.

Present revision petition is against the judgment of conviction and order of sentence dated 08.01.2015 passed by Judicial Magistrate Ist Class, Amritsar whereby the revisionist was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 420 IPC	to undergo Rigorous Imprisonment for a period of 2 years and to pay a fine of Rs. 2000/-.	to further undergo RI for a period of 15 days.

2. The appeal filed by the revisionist was dismissed by learned Additional Sessions Judge, Amritsar vide judgment dated 22.1.2016.

..

3. Facts relevant for the purpose of decision of the present case; that initially a case No 24 dated 1.4.1997 under Sections 7, 13(2) of the Prevention of Corruption Act, 1988 was registered at Police Station Vigilance Bureau, Amritsar against one Hira Singh at the instance of present petitioner, Balwant Singh in his capacity as complainant and the allegations levelled by Balwant Singh against said Hira Singh were that Hira Singh had taken Rs.2,500/- as bribe from him to enter his name in the *Girdawari* and as such, Balwant Singh received Rs.25,000/- as Prize money from the Government vide draft No.OL/00002/332677 dated 31.03.1998. However, during the trial of that case against Hira Singh, present petitioner, Balwant Singh resiled from his statement. Resultantly, Hira Singh (accused in that case) was acquitted by the Court of Shri B.K.Mehta, the then Special Judge, Amritsar. Consequently, a case was registered against the present petitioner, Balwant Singh.

4. During the trial of the case, learned trial Judge completed the trial, including framing of charge against the accused under Section 420 IPC, recording of evidence and examining the accused under Section 313 Cr.P.C., and after considering the prosecution evidence and defence version held the present revisionist guilty and convicted and sentenced him thereunder. Appeal preferred by the revisionist was dismissed by learned Additional Sessions Judge, Amritsar vide judgment dated 22.1.2016 and as such the present revision petition before this Court.

5. At the time of arguments, learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case. Undisputedly, the petitioner made a complaint against Hira Singh for

..

demand of bribe money of Rs.2500/- from him for entering his name in the *girdawari*, however, he never appeared in the Court of Shri B.K.Mehta, learned Special Judge, Amritsar, who was dealing with the trial against accused Hira Singh and as such, there was no question of any cheating on his part, through he admitted the receipt of payment of Rs.25,000/- as prize money from the Government.

6. Learned counsel for the petitioner also contended that there is absolutely no material or evidence available on the file indicating that the petitioner appeared in the Court of Shri B.K.Mehta, learned Special Judge, Amritsar and resiled from his earlier statement, nor he ever put his signature and both the Courts below have not considered all these facts, which is the main basis of the present case. The other witnesses examined by the prosecution are just formal witnesses who had deposed regarding making payment of Rs.25000/- as prize money to petitioner, Balwant Singh which is not in dispute.

7. Learned State counsel while arguing on these points contended that on 1.10.2002, petitioner, Balwant Singh had appeared as PW-3 in the Court of Shri B.K.Mehta, learned Special Judge, Amritsar and had not supported the prosecution case. Resultantly, accused Hira Singh was acquitted and the petitioner has been rightly held to be guilty for commission of offence punishable under Section 420 IPC and the present revision petition is absolutely without any merit and the same be dismissed.

8. Having considered the facts, material and evidence available on the file, this Court is of the view that certain facts are not in dispute in

..

any way, that Balwant Singh had made a complaint to the Vigilance Bureau regarding demand of bribe money of Rs.2500/- by Hira Singh. As a result of that, he was paid Rs.25,000/- as prize money by the Government. Hira Singh was acquitted by learned trial Judge as the offence alleged against him was not proved as per law. The witnesses examined in this case before learned trial Judge are PW-1, Inspector Partap Singh who was working as Accountant in the Vigilance Office in the year 1998 and he deposed that draft No. OL/00002/332677 dated 31.3.1998 for a sum of Rs.25,000/- in the name of Balwant Singh was given to him as he had filed a complaint against Hira Singh. PW-2, Harish Khanna, Senior Manager of the bank deposed about deposit of an amount of Rs.25,000/- in the account of Balwant Singh. PW-3, Kamal Kumar and PW-4 ASI Raman Kumar deposed about the investigation proceedings and proved recovery memos Ex. PW-1/B, Ex. PW-2/1 and Ex. PW-2/2. PW-5 Tarlok Singh deposed that Balwant Singh had made complaint against Hira Singh regarding demand of Rs.25,00/- as bribe money and on that basis, FIR Ex. PW-5/A was registered against Hira Singh.

9. The defence version by way of statement of accused under Section 313 Cr.P.C. is denial on the part of the accused wherein the accused had taken specific plea that he never appeared as a witness in the Court of Shri B.K.Mehta, learned Special Judge, Amritsar and not resiled from from his earlier statement.

10. As per the material and evidence before the Court below, there was absolutely no evidence that petitioner Balwant Singh ever

..

appeared in the Court of Shri B.K.Mehta, learned Special Judge, Amritsar and made statement thereby resiling from his earlier statement made before PW-5 Tarlok Singh. The prosecution was required to prove all this material during the trial of this case which has not been done. Even a copy of statement of Balwant Singh made during trial against Hira Singh has not been produced and proved in the present case file. Learned State counsel has fairly stated that even the said statement of Balwant Singh as PW-3 (though not produced and proved in this case) was not even signed by Balwant Singh. That way, the prosecution case has not been proved at all, rather the defence version appears to be nearer to the truth and this fact has not been considered by both the Courts below.

11. In view of the above, the present Revision Petition is accepted and the impugned judgment of conviction and order of sentence dated 08.01.2015 passed by Judicial Magistrate Ist Class, Amritsar and the judgment passed by the Appellate Court, dated 22.1.2016, are set-aside. Resultantly, the petitioner is acquitted of the charge in this case and he be set at liberty forthwith, if not required in any other case.

12. The present revision petition stands allowed in the above terms.

November 01 , 2017
som

(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned	Yes
Reportable	Yes