

In the High Court of Punjab and Haryana at Chandigarh

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Cr. Revision No.4335 of 2016 (O&M)

Date of Decision:6.2.2017

Ravinder Pal Bagga

...Petitioner

v.

State of Haryana

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sukhjit Singh, Advocate for the petitioner.

Mr. P.K. Aggarwal, Deputy Advocate General, Haryana
for the respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 16.11.2016 passed by learned Additional Sessions Judge, Kurukshetra, whereby the appeal filed against the impugned judgment of conviction and order of sentence dated 31.8.2012 passed by learned Chief Judicial Magistrate, Kurukshetra, convicting the petitioner for the offence under Section 420 IPC and sentencing him to undergo rigorous imprisonment for one year and to pay a fine of ₹3,000/- and in default of payment of fine to further undergo simple imprisonment for one month, has been dismissed. The petitioner has been acquitted for the offence under Section 120-B IPC.

Notice of motion was issued in this case.

Mr. P.K. Aggarwal, learned Deputy Advocate General, Haryana,

has put in appearance on behalf of the respondent-State and contested this criminal revision petition.

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

From the record, I find that challan was presented against Ravinder Pal Bagga by Police of Police Station City, Thanesar to face trial for the commission of offences punishable under Sections 420, 406, 467, 468, 471 and 120-B IPC.

The brief facts of the case as noted down in the judgment dated 31.8.2012 passed by learned Chief Judicial Magistrate, Kurukshetra, are as under:-

“The facts are that in the first week of January 1999, accused came to the house of complainant Buta Singh and told him that he was in the business of sending the people abroad and also promised Buta Singh that he would send his son to America through some Minister of Punjab. The complainant should arrange Rs.7,50,000/-. The accused also assured that if he failed to send his son to America, he would return the money along with interest at the rate of 2% per month. Buta Singh contacted his friends namely Darshan Singh and Rattan Lal and they also agreed to send their sons to America. Buta Singh borrowed Rs.1,93,000/- from his commission agent M/s Vinod Kumar Bansi Ram, Pehowa. Rs.1,50,000/- each from Dhian Singh son of Basawa Singh and Bahadur Singh son of Jaswant

Singh and remaining amount was contributed by him through his own sources. Darshan Singh mortgaged his land with Bawa Singh of G.S. Farm for Rs.3,00,000/-, borrowed Rs.75,000/- from Charan Singh son of Kalsa and Rs.1,50,000/- from Surinder Kumar son of Jagdish Rai. Rattan Lal borrowed Rs.50,000/- from Bodhni Co-operative Society, Rs.1,00,000/- was received by F.D.R. in the name of Paramjeet son of Rattan Lal, he borrowed Rs.1,50,000/- from Commission Agent Shop, Rs.1,00,000/- each from his younger brother Parkash and his elder brother Subhash and Rs.50,000/- from his other own sources and relatives. After arranging the money, they contacted Ravinder Bagga and amount of Rs.6,00,000/- was given to the accused persons i.e. Rs.2,00,000/- each by all the complainants and also handed over the passports etc. of their sons, namely, Daljit Singh, Bishamber Dass and Paramjeet Singh. The accused also obtained thumb impressions of all the complainants on blank papers on the pretext that the same were required for the purpose of arranging Visa etc. and it was assured by the accused that their sons would be sent to America very soon. On 11.5.1999, sons of all the three complainants were called at Delhi Airport and they were made to board in a flight scheduled for Moscow, from where they went to Cuba but no person of the accused met them and they were forced to come back to India. In the mean time, all the complainants

gave Rs.15,000/- each to the accused. Their sons told the whole episode to them. The accused were contacted and they assured that their sons would be sent to America again and Daljit Singh son of Darshan Singh was again sent to Cuba where he was arrested and deported back. The complainants again approached the accused and demanded the money back. The accused refused to return the money and threatened to kill the complainants. The matter was reported to the police but no action was taken.

After that the complaint was filed in the Court against Ravinder Nath Bagga, Rekha Rani and Shanti Devi and the same was sent to the police station for registration of the case under Section 156(3) Cr.P.C. vide order dated 27.4.2004. On the basis of the said complaint, the FIR was registered. Further investigation was conducted. Accused Ravinder Pal Bagga and Akhlak Khan were arrested while Shanti Devi and Rekha Rani were found innocent. On completion of investigation challan was presented in the Court”

The learned Chief Judicial Magistrate, Kurukshetra, framed charges for the offences under Sections 420 and 120-B IPC against accused Ravinder Pal Bagga, to which he pleaded not guilty and claimed trial.

The prosecution in order to prove its case examined PW-1 HC Sushil Kumar, PW-2 Buta Ram, PW-3 ASI Sultan Singh, PW-4 SI Rajpal Singh, PW-5 Inspector Daljit Singh, PW-6 ASI Mohinder Singh (retired)

and PW-7 Darshan Singh.

On the other hand, the accused denied all the allegations levelled against him in his statement recorded under Section 313 Cr.P.C and pleaded himself as innocent. He tendered copies of judgments dated 17.9.2010 and 4.9.2010 Ex.D.1 and Ex.D.2 respectively relating to other cases in which he had been acquitted.

Learned Chief Judicial Magistrate, Kurukshetra, after appreciating the evidence acquitted the accused under Section 120-B IPC and convicted him under Section 420 IPC and sentenced him to undergo rigorous imprisonment for one year and to pay a fine of ₹3,000/- and in default of payment of fine to further undergo simple imprisonment for one month. Against this judgment, an appeal was filed. The learned Additional Sessions Judge, Kurukshetra, vide judgment dated 16.11.2016 dismissed his appeal. Aggrieved from this judgment, the present revision petition has been filed.

I have gone through the Lower Courts record as well as the judgments passed by the Courts below and have heard learned counsel for the revision petitioner as well as learned State counsel.

From the record, I find that the complainant Buta Ram deposed regarding the prosecution version consistently. PW-7 Darshan Singh also deposed as per prosecution version. Their version has been duly supported and corroborated by the official witnesses. Even the tickets have been produced and proved on the record which were taken in police possession during investigation.

A perusal of the statements of the complainant as well as

Dharshan Singh along with other PWs, I find that there is nothing in their cross-examination to disbelieve their statements. There are no material discrepancies in their statements nor there is improbability in the version of the prosecution. There is also nothing in the cross-examination which may make their statements unreliable. The version of the accused in the statement under Section 313 Cr.P.C. is simple that he has been falsely implicated. Nothing has been mentioned as to why he has been falsely implicated. What was the motive or enmity of the complainant with the accused. The perusal of the record as well as judgments passed by the Courts below show that the findings have been given while appreciating the evidence in right perspective. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by the Courts below are perverse i.e. against the evidence or against the law. The witnesses being reliable witnesses, the learned Courts below have put the reliance on the statements of the PWs correctly. The findings given by the Courts below are correct as per evidence and law and no interference is required from this Court.

Argument of the learned counsel that money was not given to the present accused but to Akhlak Khan is not supported and corroborated by any evidence.

As regards the argument for reduction of sentence, I find that keeping in view the facts and circumstances of the present case, no ground

is made out for reduction of the sentence. The sentence imposed upon the petitioner cannot be held as excessive.

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

February 6, 2017.

(Inderjit Singh)
Judge

hsp

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