

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

CRR No.524 of 2016.

Decided on:-19.09.2017.

Bhanwar Lal.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. P.S. Bhandari, Advocate for
 Mr. Sant Pal Singh Sidhu, Advocate
 for the petitioner.

HARI PAL VERMA, J.

The petitioner-complainant has filed the present revision petition against the judgment dated 18.11.2015 passed by learned Additional Sessions Judge, Ferozepur whereby his appeal against the judgment dated 12.11.2014 passed by learned Sub-Divisional Judicial Magistrate, Guruhar Sahai acquitting the respondents No.2 to 4-accused, was dismissed.

Briefly stated, FIR No.150 dated 25.08.2006 under Sections 420, 467 and 120-B IPC was registered against the respondents No.2 to 4-accused at Police Station Guruhar Sahai, District Ferozepur on the basis of an application moved by petitioner-complainant Bhanwar Lal. As per the complaint, the respondents-accused came to the complainant and asked him that they can arrange job of Ticket Collector (T.T.E.) in the Railways Department for Bal Krishan, who is the son of the complainant. For that

purpose, the accused had taken a sum of Rs.2 lakhs from the complainant in the month of July, 2004. Besides this, a sum of Rs.10,000/- was also obtained by the accused as travel expenses. The accused had also taken Rs.2,10,000/- from Gurnam Singh for the purpose of providing similar job to his son, namely, Gurjit Singh. However, the respondents-accused failed to provide job to the son of the complainant. The accused did not return the aforesaid money to the complainant and Gurnam Singh for which the aforesaid FIR was registered.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copies of report along with other documents were supplied to the accused, as envisaged under Section 207 Cr.P.C. On finding a prima facie case against the accused, they were charge-sheeted under Sections 420, 467 and 120-B IPC, to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 12.11.2014 acquitted the respondents-accused of the charge framed against them.

Aggrieved against the aforesaid judgment dated 12.11.2014 passed by learned trial Court, the petitioner filed an appeal before the Court of Session challenging the acquittal of respondents No.2 to 4. However, the said appeal was dismissed by learned Additional Sessions Judge, Ferozepur vide judgment dated 18.11.2015.

It is in the aforesaid circumstances, the petitioner-complainant has filed the present revision petition challenging the judgments of acquittal of the Courts below.

Learned counsel for the petitioner-complainant has argued that in the present case, no evidence has been produced by the respondents-accused in their defence, rather, the prosecution has fully proved its case. Courts below have not considered the evidence available on record and have acquitted the accused on the basis of surmises and conjectures. Prosecution evidence has not been appreciated in a proper perspective as several aspects have not been discussed by the Courts below. He has prayed that the impugned judgments of acquittal be set aside and the respondents No.2 to 4 be convicted and sentenced for the offence committed by them.

I have heard learned counsel for the petitioner-complainant.

It is the case of the petitioner-complainant that the accused have taken a sum of Rs.2,10,000/- from him for providing job to his son in the Railways Department. However, during trial, when the petitioner-complainant had appeared in the witness box as PW3, he has failed to adduce any detail viz. a viz. the exact date and time, when he had given Rs.2,10,000/- to the accused. No such detail has come in the complaint made by him to the police. The petitioner has deposed that he had arranged this money after selling his land in Rajasthan, but interestingly, he has neither disclosed the date of such sale of land nor has produced the sale deed on record, which can substantiate his allegation. Moreover, he has also not disclosed the name of person in whose favour the land in Rajasthan was sold by him.

There are concurrent findings given by the Courts below in favour of the respondents No.2 to 4. It would also be relevant to mention here that the scope of revisional jurisdiction is vested with limited powers. Hon'ble

Supreme Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

In ***Venkatesan Versus Rani and another 2013(4) RCR (Criminal) 919***, the Apex Court has held that while examining an order of acquittal, the revisional jurisdiction of the High Courts is extremely narrow and the same should be exercised only in case where the trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence. The language of Section 401 Cr.P.C. makes it amply clear that there is no power vested in the High Court to convert a finding of acquittal into one of conviction. The relevant paragraph No.7 of the said judgment reads as under:

“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code.

Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is no power vested in the High Court to convert a finding of acquittal into one of conviction.”

It is settled law that the prosecution is required to prove its case beyond all probabilities. The accused is considered to be innocent unless proved guilty by the prosecution by leading cogent evidence. However, in the present case, the petitioner has not been able to prove her case against the respondent beyond shadow of reasonable doubt. The petitioner-complainant has also not been able to prove that in what manner, impugned judgments passed by the Courts below suffer from illegality, irregularity or perversity which may warrant interference of this Court by invoking its revisional jurisdiction.

Accordingly, the judgment of acquittal passed by learned trial Court on 12.11.2014 as well as judgment dated 18.11.2015 passed by learned Additional Sessions Judge, Ferozepur in appeal are affirmed and the present revision petition, being without any merit, is dismissed.

September 19, 2017

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No