

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

CRR No.4631 of 2017 (O&M)
Date of Decision: December 12, 2017

M/s Alchem International Private Limited

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Sonam Gupta and Ms.Ishita Jain, Advocates
for the petitioner.

INDERJIT SINGH, J.

The present revision petition has been filed by petitioner against State of Haryana and other respondents, challenging the impugned order dated 03.11.2017 passed by learned Addl. Sessions Judge, Faridabad, vide which the application filed by the complainant-petitioner under Section 391 Cr.P.C. was dismissed.

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

From the record, I find that during the pendency of the appeal, an application under Section 391 Cr.P.C. was filed by the petitioner for producing additional evidence. It is stated in the application that appeal in hand has been instituted against judgment dated 12.08.2016 vide which accused have been acquitted of the charges under Sections 379, 406, 420,

21.05.2008 against the accused before the police and all the relevant documents were also annexed with the complaint including copies of Secrecy Agreements dated 20.4.1999 and 23.3.2005 entered into between the complainant and accused Amit Jaiswal. The FIR was registered by the police under Sections 379, 406, 420, 120B and 506 IPC and charge sheet was subsequently presented. However, the police did not furnish the copies of secrecy agreements along with the final report. It is further stated that learned trial court while acquitting the accused held that since no secrecy agreements have been led in evidence, the allegations of the prosecution cannot be verified. It is also submitted that complainant was not aware that police has not furnished copies of secrecy agreements along with the final report. This fact came to the knowledge of complainant when impugned judgment of acquittal was passed.

Learned Addl. Sessions Judge, Faridabad, after discussing the law and facts of case, found that charges were framed on 13.01.2010 and prosecution evidence was closed on 23.02.2015 i.e. after a period of more than five years and numerous opportunities were awarded to the prosecution but the prosecution has not produced any evidence on record to prove secrecy agreements between the parties. If now, this application is allowed, it will amount to filling up of lacuna and *de novo* trial and the witnesses were again to be examined. I also find that if the secrecy agreement has not been annexed with the charge-sheet, it would have come to the knowledge of the complainant during these five years when the evidence of prosecution was going on. Even at the time of evidence of complainant, it could have been produced and can get its statement deferred or could have asked for production of the document from the police. Now, oral statement that it has

handed over the document to the police, cannot be believed. Nothing has been mentioned that this document has been taken by the police vide recovery memo.

Learned Addl. Sessions Judge, Faridabad has rightly dismissed the application under Section 391 Cr.P.C. as the evidence was well within the knowledge of the prosecution including the complainant and it has not been proved before the trial Court and if this evidence is now allowed, it will amount to *de novo* trial and filling up of lacuna.

From the perusal of the impugned order dated 03.11.2017, I find that no illegality has been committed by learned Addl. Sessions Judge, Faridabad, while dismissing the application. The impugned order is correct, as per law and does not require any interference from this Court.

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

December 12, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No