

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

CRM-M-14816-2018

Date of Decision: April 20th, 2018

Manjit Singh

..... Petitioner

Versus

Nirmal Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Kamaldip Singh Sidhu, Advocate for the Petitioner.

SUDIP AHLUWALIA, J.

In this Application the Petitioner has assailed the impugned order dated 13th October, 2017 passed by the Ld. Judicial Magistrate Ist Class, Roopnagar vide which charge under Section 420 of the IPC was framed against him in Criminal Complaint No. RT-79, dated 8th November, 2011 titled as '**Nirmal Singh Vs. Manjit Singh**', as well as the Judgment dated 15th February, 2018 passed by the Ld. Additional Sessions Judge, Roopnagar whereby his revisional application against the Trial Court's order and the charges framed consequently was dismissed.

2. The substance of the allegations against the petitioner as made on behalf of the complainant has been noted by the Ld. Trial Court in its impugned order, and which are set out as below -

“Allegations of the complainant in complaint are that in the month of January 2017 accused was wishing to sell his TATA SUMO bearing registration No. HR-45T-0120 so he told about his desire to one Paramjit Singh who has mechanical shop, so complainant came

into contact of accused through Paramjit Singh and entire conversation took place in the shop of said Paramjit Singh regarding sale of vehicle. He told him that vehicle is owned by his brother-in-law who has executed GPA to sell the same in his favour. The complainant had purchased the said vehicle in good faith for Rs.1,95,000/- and he paid Rs.1,35,000/- in cash and issued receipt dt. 09.01.2007 in the presence of above said Paramjit Singh and HC Gurdarshan Singh and accused assured him that documents of the car would be handed over to him after clearance from DTO office Karnal. After 15 days complainant paid him remaining Rs.60,000/- without issuing any receipt. After few days accused handed over the documents of the car to complainant by saying that same were got cleared from DTO Office. But when complainant himself verified about the said documents he came to know that same were incomplete and unclear and then complainant visited DTO Office Karnal where it was revealed that said vehicle was registered in the name of Darshan Singh of Panipat and same is used for commercial purpose and Commercial Tax of Vehicle was due since 2004. Even the permit of the car was not renewed. When the complainant contacted with accused to take legal action against him, he started giving threats to complainant that he is a police official and have links with higher authorities and could involve him in criminal cases.”

3. After having considered the oral as well as documentary evidence on record, the Ld. Trial Court was of the opinion that *prima facie* a case under Section 420 of the IPC was made out against the petitioner, but not under Section 406 IPC, which was also alleged to have been committed by him. The Ld. Revisional Court was in agreement with the decision of the Ld. Trial Court.

4. It has been argued on behalf of the Petitioner's side that he is a Police Officer suffering from 76% permanent physical disability on account of having been injured in a major road accident, which led to amputation of his right leg, and that he has been motivatedly framed in the case simply

because he happens to be the brother-in-law of Darshan Singh, the real owner of the disputed vehicle, and that all the disputes actually were between the complainant and said Darshan Singh alone. Ld. Counsel for the Petitioner further submitted before the Court that the receipt allegedly issued by the Petitioner, which is on record as Annexure P-1, is actually a forged and fabricated document, which does not bear his signatures and the further contention in this regard is that the Petitioner signs his name only in English, and not in Punjabi as depicted in the said receipt.

5. After hearing the contentions of Ld. Counsel for the Petitioner, this Court finds no justification for interfering with the impugned orders of both the Courts below. Whether or not the receipt in question (Annexure P-1) is a genuine document bearing the actual signature of the Petitioner or otherwise, is essentially a question of fact, and of course the burden of proof lies upon the complainant to establish the allegations in this regard conclusively, but mere denial of authorship of the disputed document in itself is not a sufficient reason to discard it outright. Similarly the fact that Petitioner is suffering from permanent physical disability to the extent of 76% is also an altogether irrelevant factor, since the alleged acts of inducement, false promises or cheating etc. as made out on behalf of the complainant are not dependent upon physical condition of the accused, since apparently no strenuous physical activity would appear to be called for in a case where the allegations are restricted to deception by way of oral or documentary representations, and consequent delivery of money on account of such deception.

6. The Ld. Revisional Court in dismissing the Petitioner's revision was therefore, justified in doing so by placing reliance on the decision in '**State**

of M.P. Vs. Sudhir' 2000 RCR 524 (SC) wherein it was held that, “*at the time of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. Court is not required to arrive at a conclusion that the material produced was insufficient or not for convicting the accused*”.

7. For the aforesaid reasons, the present Application is found to be bereft of any substantive merit and is therefore, dismissed.

April 20th, 2018
AS

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No