

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

109/2

CRR No.1314 of 2016 (O&M)
Date of Decision: February 28th, 2018

Gram Panchayat village Burj Baghel Singh Wala, Block Malerkotla-1,
District Sangrur

...Petitioner

Versus

Pargat Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ghulam Nabi Malik, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in CRM No.11090 of 2016 is for condonation of delay
of 523 days in filing the revision petition.

The reason for not approaching the Court in time is that the earlier Gram Panchayat did not want to challenge the order of acquittal of respondent No.1 dated 16.07.2014 passed by the Additional Sessions Judge, Sangrur, however, with the change in Panchayat when the majority of the members of the Gram Panchayat wanted to challenge the order of acquittal, the present revision petition has been filed. This in the considered view of this Court cannot be a ground for explaining the delay in approaching the Court as the decision of the Court is not to be challenged at the whims and fancies of any person and should be based upon proper appreciation of the judgment and in case there is some illegality found therein. However, in the light of the fact that the present revision petition has been preferred by the Gram Panchayat, counsel for the petitioner has also been heard on merits of the case.

It is the contention of learned counsel for the petitioner that
respondent No.1-Pargat Singh, the Panchayat Secretary conducted an

auction along with the Sarpanch of the village namely Mewa Singh, who unfortunately, during the pendency of the trial, expired. Despite the auction having been finalised and the highest bidder having deposited the amount which was received by the Sarpanch of the village and kept in his personal account, the said amount was returned and after 2-3 days, the auction of 473 *bighas* of Panchayat land was given to the 2nd highest bidders and which money also was not deposited in the account of the Gram Panchayat and was rather misappropriated by respondent No.1 along with Sarpanch of the village. He contends that the receipts, which have been produced showing the utilization of the auction amount received for the purpose of development of the village and purchase of the material for the said purpose, were all forged and fabricated and in fact the witnesses have come and deposed to the effect that these receipts were not issued by them. He, therefore, contends that respondent No.1 cannot run away from the liability as he in connivance with the Sarpanch of the village had misappropriated the Panchayat fund which was the auction amount. He, therefore, prays that the order passed by learned Additional Sessions Judge, Sangrur, dated 16.07.2014 cannot sustain and the judgment of conviction and the order of sentence as passed by the Judicial Magistrate Ist Class, Malerkotla, convicting respondent No.1 deserves to be restored.

Having considered the submissions made by learned counsel for the petitioner, I do not find any force in the same.

Perusal of the judgment passed by learned Additional Sessions Judge, Sangrur, would show that it was not

respondent No.1 and Sarpanch Mewa Singh alone who had conducted the auction but the other Gram Panchayat members were also present at the spot. That apart, the amount which has been received from the highest bidder is stated to have been deposited in the personal account of the Sarpanch and it has not come on record that any share thereof was received by respondent No.1. As regards the amount having been paid by the lease holders who were the 2nd highest bidders to respondent No.1 and the Gram Panchayat, there is nothing on record which would substantiate it as all the receipts which have been issued were by the Sarpanch of the Gram Panchayat Mewa Singh and not respondent No.1. As regards the receipts which have been produced on record, they were all signed by the Sarpanch of the village. All these go a long way to show, may be the involvement of the Sarpanch but not in any manner connected with respondent No.1. Neither there is any embezzlement made out nor is there any forgery or fabrication of any document, on the basis of which it can be said that the offences for which respondent No.1 has been said to be accused of, have been proved against him.

That apart, no prosecution sanction has been obtained by the prosecuting agency on or before and during trial, therefore, in the light of non-compliance of the provisions of Section 197 Cr.P.C., the prosecution in any case could not have been proceeded against respondent No.1.

In view of the above, the present revision petition is dismissed both on the grounds of delay as also on merits.

February 28th, 2018

Puneet

(AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No