

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

CRR-660-2016

Date of decision:-17.5.2018

Jagan Nath

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Sukhpreet Kaur, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 4.9.2015 passed by learned Additional Sessions Judge, Kurukshetra dismissing the appeal as well as judgment dated 6.2.2012 passed by Sub-Divisional Judicial Magistrate, Pehowa acquitting respondents No.2 to 6 of the charge framed against them.

Briefly stated, the facts of the case are that the complainant Jagan Nath son of Firaya Lal, resident of Urban Estate, Karnal had submitted a written complaint addressed to Superintendent of Police, Kurukshetra on 4.5.2002 alleging therein that he along with his brothers, namely Prem Chand And Ved Parkash purchased land measuring 4

Kanals 13 Marlas from one Phool Singh vide registered sale deed dated 8.1.1993, which was out of total joint khewat land having area of 56 Kanals 0 Marla; that mutation of the land so purchased by the complainant and his brothers was sanctioned in their favour on 25.3.1993; that since the land was joint and under the cultivation of Jagdish, Raja Ram, Preet Mohinder Singh as co-sharers, names of Jagdish and Raja Ram are mentioned as co-sharers in the entire khewat measuring 56 Kanals 0 Marla; that Sohan Lal, Satpal, Babu Ram, Yashpal had purchased 41 Kanals 8 Marlas of land from Jagdish and Raja Ram besides 7 Kanals of land from Preet Mohinder Singh, therefore, becoming co-sharers in the joint khewat to that extent; that such co-sharers wanted to grab the land of the complainant and his brothers and to take forcible possession thereof and moved an application for correction of khasra girdawari of the land measuring 54 Kanals in their names leaving names of complainant and his brothers and got allowed the application from Tehsildar; that in an inquiry conducted by Deputy Commissioner, Kurukshetra, Tehsildar was found to be responsible for allowing the application and FIR was registered against the culprits.

After registration of the FIR, the matter was investigated. The accused were arrested in this case. After completion of investigation and other formalities, challan against accused was prepared and filed in the Court.

On presentation of challan in the Court of Sub Divisional Judicial Magistrate, Pehowa, he supplied copies of documents relied upon in the challan to the accused free of cost as provided under Section 207

Cr.P.C.

Learned Sub Divisional Judicial Magistrate, Pehowa finding that charge for offences under Sections 196, 209, 218, 420 and 467 read with Section 120-B IPC was disclosed against all the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial. Later on the order of framing of charge for the above mentioned offences was quashed qua accused, namely Yashpal, Satpal, Sohan Lal and Sant Lal by the Appellate Court in a revision petition vide order dated 30.3.2007. Thereafter, accused Sant Lal was charge-sheeted for the offence under Section 218 read with Section 120-B IPC and accused Yashpal, Sant Lal, Sat Pal and Sohan Lal for the offences under Sections 420/467 read with Section 120-B IPC, whereas accused Subhash continued to face trial for the offence punishable under Sections 196, 209, 218, 420 and 467 read with Section 120-B IPC.

During the course of its evidence, the prosecution had examined as many as ten witnesses, namely, PW1 Jagan Nath, PW2 Sandeep, PW3 Prem Parkash, PW4 Baljit Singh, Halqa Patwari, PW5 DSP(Retd.) Fateh Singh, PW6 SI Prem Chand, PW7 SI Hannu Ram, PW8 ASI (Retd.) Himmat Singh, PW9 Naveen Kumar, Nazir, SDM Office, Thanesar and PW10 Rakesh Kumar, Clerk besides tendering some documents.

Thereafter, the prosecution evidence was closed by Court order.

Statements of accused were recorded under Section 313 Cr.P.C. in which the accused while denying the incriminating

circumstances appearing against them submitted that they were innocent and had been falsely involved in the case.

In defence evidence, accused examined Rakesh Kumar as DW1 besides tendering documents Ex.D1 to Ex.51.

After hearing arguments, the learned trial Court had acquitted the accused of the charge framed against them. The reasoning given by the trial Court for coming to this conclusion was that though order of correction of khasra girdawari was made without spot inspection, but the complainant was not affected in any manner by the order dated 30.4.1998 vide which khasra girdawari had been changed by Tehsildar-cum-Assistant Collector in names of Jagish and Raja Ram to names of Sat Pal etc.; that in case the complainant and his brothers had any grouse, they had a remedy of seeking separate possession by partition but there is nothing on record to show that they had availed of that remedy. It was further observed that the allegations levelled in the FIR do not disclose any element of dishonest inducement on the part of accused persons towards the complainant and the complainant was not induced to deliver any property by the accused; further accused did not destroy any part of any valuable security; that since khasra girdawari was not a document of title or ownership and was not valuable security, therefore, no offence under Section 467 IPC was made out; that Sant Lal, Tehsildar – cum – Assistant Collector was a public servant and he had passed the order dated 30.4.1998 in discharge of his official duties, therefore, sanction for his prosecution was required in terms of Section 197 Cr.P.C., which had not been obtained.

The complainant had preferred an appeal against the said judgment passed by trial Magistrate, which was assigned to learned Additional Sessions Judge, Kurukshetra, however, vide judgment dated 4.9.2015 learned Additional Sessions Judge, Kurukshetra affirmed the judgment passed by trial Court and dismissed the appeal, which left the complainant aggrieved and he has approached this Court by way of filing the present revision petition.

I have heard learned counsel for the petitioner besides going through the record.

Learned Additional Sessions Judge, Kurukshetra had observed that as per law, possession of one co-sharer is that of all unless ouster is proved and on account of moving of application for correction of khasra girdawari by the accused No.1 to 4, any right title or possession or interest of the complainant was not taken away and allowing application for correction of khasra girdawari at the most would have forced the complainant to resort to some remedial action, by filing of revision/appeal etc.; furthermore dishonest inducement of the complainant by the accused was not established.; that the order passed by respondent No.5 was within his competence.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

In view of the above, I find no illegality or infirmity in the judgments passed by the Courts below, the same are upheld and the

revision is found to be without any merit and is dismissed accordingly.

Necessary information be sent to the quarter concerned.

17.5.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No