

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1837-2017 (O&M) and
other connected matters.

Date of decision: 05.12.2018

Avinder Kaur

..... Petitioner

Versus

Jaipal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Aminder Singh, Advocate for the petitioner(s).

RAMENDRA JAIN, J. (ORAL)

By this common judgment, the above titled revision along with 9 other bearing CRR Nos. 1686, 1719, 1720, 1721, 1728, 1946, 1948, 1949 and 2185-2017, laying challenge to the judgment dated 20.01.2017 of the Ist Appellate Court, are being disposed of, as similar facts are involved therein, whereby respective appeals filed by the petitioner and State of Punjab, separately were dismissed, affirming judgment dated 14.09.2015 of the trial Court, acquitting respondents No. 1 and 2 under Sections 420, 465, 467, 468, 471 IPC and Section 7 of the Essential Commodities Act, 1955 (for short-'the Act'). For brevity, the facts are being extracted from CRR-1837-2017.

Briefly, Malwinder Kaur, real sister of the petitioner was given in marriage to respondent No. 1-Jaipal Singh. She owned a gas agency prior to her marriage. After marriage, on account of beatings by respondent No. 1-Jaipal Singh, his wife-Malwinder Kaur, died on 10.04.1996. Consequently, respondent No. 1, was booked, tried and finally acquitted in a criminal case, got registered against him by the

police for murdering his wife.

Thereafter, petitioner lodged FIR No. 36 dated 02.05.2005, under Sections 420, 465, 467, 468, 471 IPC and Section 7 of the Act at Police Station Ahmedgarh, against respondents No. 1 and 2, levelling allegations that they were issuing gas connections to general public illegally under 'Member of Parliament Quota' by forging and fabricating their stamps, signatures and false affidavits. In this way, they have committed fraud of several lakhs of rupees. Quoting some examples in the complaint mentioning the quantum of money illegally collected by respondents No. 1 and 2 from general public, on the basis of forged and fictitious stamps, signatures and affidavits, the petitioner projected as, if, he had committed a big scam.

On completion of investigation, police filed 10 separate final reports under Section 173(2) Cr.P.C., against respondents No. 1 and 2, to face trial under the aforesaid offences for committing fraud, cheating and violating the provisions of the Act. Resultantly, respondents No. 1 and 2, faced 10 different trials.

However, after holding full fledged trial, they both were acquitted by the trial Court, vide 10 separate judgments of even date i.e. 14.09.2015.

Being dis-satisfied, the petitioner-complainant approached the Ist Appellate Court, filing different appeals. Simultaneously, State of Punjab also filed 10 appeals against the aforesaid judgments of acquittal of respondents No. 1 and 2. However, all the 20 appeals i.e. 10 filed by the petitioner and another 10 by the State, were dismissed by the Ist

Appellate Court, vide 10 separate judgments of even date i.e. 20.01.2017, by clubbing the appeal of the petitioner with State appeal. It is pertinent to mention here that State has now not preferred any revision against the judgment of the Ist Appellate Court.

Learned counsel of the petitioner *inter alia* contends that both the Courts below failed to appreciate that three Members of Parliament, while appearing in the witness-box deposed that the signatures or stamps used by respondents No. 1 and 2 for issuance of gas connections were not of them. The alleged vouchers for release of gas connections recovered from the custody of respondents No. 1 and 2 were not issued by them and the same were forged and fictitious documents.

Having given anxious consideration to the submissions of learned counsel for the petitioner, this Court finds the instant revisions completely devoid of any merit for the reasons to follow:

No question of law, much less substantial, has been raised in this revision.

In revision, this Court has very limited power, which can only be exercised, (i) when the Courts below have acted beyond the jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised the same illegally.

After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned and based on correct appreciation of evidence. Therefore, the same are not required to be interfered with. All the points raised by learned counsel for the petitioner have already been dealt with by both

the Courts below in detail.

Initially, FIR was got registered by the petitioner by producing two documents before the police i.e. voucher No. 432925, Ex. PW-12/A in the name of Harbans Kaur, allegedly issued by Sh. Balwinder Singh Bhundar, Member of Parliament (Rajya Sabha) and Transfer Voucher, Ex. PW-11/A, issued by Dipali Gas Agency, Rurki, to one Harwinder Singh. Original of these documents never saw the light of the day. Even Harwinder Singh and Harbans Kaur, were not examined by the prosecution to corroborate the allegation of the petitioner against respondents No. 1 and 2. In the absence thereof, it is well observed by both the Courts below that the prosecution could not prove its case against respondents No. 1 and 2 to the hilt.

Even the petitioner in her cross-examination as PW-6 alleged that the said documents were found lying by her in the garbage of accused. Therefore, authenticity of the aforesaid documents could not be proved by the prosecution, at any stage. Sukhdev Singh, from whom respondents No. 1 and 2 had allegedly got forged signatures of Sh. BS Bhunder, was not examined by the prosecution for the reasons best known to it. Therefore, the prosecution has miserably failed to prove the allegations of forgery and cheating from any angle allegedly committed by respondents No. 1 and 2.

PW-21 Sh. BS Bhandal, handwriting and fingerprint expert, vide his report Ex. PW-14/AY dated 27.02.2008 and Ex. PW-14/AZ dated 10.01.2008, smashed the entire prosecution story against respondents No. 1 and 2, mentioning therein that there was no conclusive

proof that signatures/standard handwriting of respondent No. 1-Jaipal Singh, were different from the signatures/writing on the priority vouchers alleged to have been forged by him. Therefore, aforesaid hand-writing and fingerprint expert did not support the prosecution case.

No aggrieved person to whom respondents No. 1 and 2 have cheated or commit fraud ever came forward to complain about them. Undisputedly, the petitioner was never cheated by them. Therefore, Ist Appellate Court, has rightly observed that the petitioner was not a victim of any fraud or cheating by respondents No. 1 and 2 and, thus, has no *locus standi* to file appeal, endorsing the view of the trial Court qua acquittal of respondents No. 1 and 2.

Statements of three Members of Parliament, also did not favour the petitioner, inasmuch as, no original document was ever produced before them which allegedly was forged by respondents No. 1 and 2. Therefore, in the absence of any such cogent and convincing evidence, respondents No. 1 and 2 have rightly been acquitted by the trial Court, which was affirmed by the Ist Appellate court.

I have carefully gone through the judgments of both Courts below and find no illegality or perversity in the same. The instant revision as well as all the connected revisions as mentioned in the first para of this judgment, being completely devoid of any merit, are dismissed.

December 05, 2018
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No