

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

CRR No.2727 of 2017 (O&M)
Date of Decision: November 12, 2018

State (U.T. Chandigarh)

...Petitioner

VERSUS

Tehal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sukant Gupta, Addl. Public Prosecutor
for the State (U.T. Chandigarh).

Mr.Karamvir Nanda, Advocate
for the respondent.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner-U.T. Chandigarh against respondent Tehal Singh, challenging the impugned judgment dated 04.02.2015 passed by learned Judicial Magistrate Ist Class, Chandigarh vide which, accused-respondent was acquitted of the charges framed against him and also the judgment dated 03.05.2017 passed by learned Sessions Judge, Chandigarh, vide which, appeal filed by the State (U.T. Chandigarh) was also dismissed.

From the record, I find that challan in the present case was presented against the accused-respondent Tehal Singh in case FIR No.04 dated 20.02.2008 under Section 420 IPC by the police of Police Station Vigilance, Chandigarh. The brief facts of the case as noted down in the judgment passed by learned JMJC, Chandigarh, are as under:-

complaint was received from Police Station Vigilance made by Inspector Sher Singh in case FIR no. 8 dated 4.12.2003 submitting therein that the complaint was received from Tehal Singh, alleging there in that he made bid on 26.2.1991 on behalf of M/s A.B. Financer Pvt. Ltd, quite office no. 6, Sector 35A, Chandigarh for the purchase of SCO NO. 55-56, Sector 46-D, Chandigarh. He also paid a sum of Rs. 2,69,000/- on the date of bid and remaining amount was required to be deposited by him later on. He also mentioned in his complaint that K.C. Arora and his wife Neelam Arora got issued the allotment letter in the name of M/s A.B.Marketing Pvt. Ltd with the connivance of the officials of Estate Office, UT, Chandigarh and later on received the possession of the site from the officials of Engineering department,UT, Chandigarh by forging his signatures. He also alleged in his complaint that K.C. Arora, his wife Neelam Arora cheated him with the connivance of the officials of the Estate Office and Engineering Department. After conducting an enquiry in the Vigilance Cell, the FIR was registered and the investigation is pending. During the investigation, accused K.C. Arora, Neelam Arora and other accused have been arrested in this case. To complete the investigation of the present case, an important fact came in light to the effect that Sh. Tehal Singh made bid in the name of M/s A.B. Financer Pvt., Ltd. The undersigned wrote the letters dated 26.6.2007, 13.7.2007 and 6.8.2007 to Sh.Tehal Singh and asked him to submit the documents relating to A.B. Financer Pvt. Ltd but he failed to give any information or supply the documents, which are required to prove the fact that A.B. Financer Pvt. Ltd was in existence at the time of making bid by Sh.Tehal Singh for the allotment of the above said site. From this fact, it has been proved that Sh. Tehal Singh induced the Estate Office to allot him a particular site by making a bid knowingly that the said A.B. Financer Pvt. Ltd was not in existence and he was not

authorized to make the bid in the name of A.B. Financer Pvt. Ltd. Hence from the act of Sh. Tehal Singh, it is clear that he has also committed the offence of cheating. As Sh. Tehal Singh is the complainant in the present case and the allegations against the other accused are with regard to getting false allotment letter from the Estate Office in the name of A.B. Marketing Pvt. Ltd and to get the possession on the basis of forged documents of Tehal Singh, so Sh. Tehal Singh can not be prosecuted in the present case. It is suggested that a separate case is required to be registered against Sh. Tehal Singh with regard this act mentioned herein above regarding a prima facie offence committed by him U/s 420 IPC. So, necessary permission to register a case and to investigate may please accorded. On the complaint Investigating Officer made endorsement and on the basis of the complaint, FIR was registered against the accused. Accused was arrested in the present case. Relevant documents were taken into possession. Statements of witnesses were recorded and finally upon completion of the investigation the challan u/s 173 of Cr.P.C was presented against the present accused. ”

On presentation of challan against the accused, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case, the accused was charge-sheeted under Section 420 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined as many as 16 witnesses. At the close of prosecution evidence, the accused-respondent was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence.

Learned JMIC, Chandigarh, after appreciating the evidence, acquitted the accused-respondent vide judgment dated 04.02.2015. An

Chandigarh, also dismissed the appeal vide judgment dated 03.05.2017. Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued. Learned counsel for the respondent appeared and contested the petition.

I have heard learned Addl. Public Prosecutor as well as learned counsel for the respondent and have gone through the record.

From the record, I find that as per prosecution version, the allegations against accused-respondent Tehal Singh are that he gave bid for allotment of a plot on behalf of M/s A.B. Financer Pvt. Ltd. but he has not produced any document to show existence of the firm. Earlier, Tehal Singh has got registered the FIR against K.C.Arora and Neelam Arora on the allegations that they got issued allotment letter in the name of M/s A.B. Marketing Pvt. Ltd. with connivance of the official of Estate Office and later on, received the possession of the site from the officials of Engineering Department by forging his (Tehal Singh) signatures. During the investigation, it was found that this firm M/s A.B. Financer Pvt. Ltd. is not in existence and the present FIR was got registered by Inspector Sher Singh.

The perusal of the record shows that accused-respondent Tehal Singh deposited money at the time of giving bid in the name of M/s A.B. Financer Pvt. Ltd. He was not allotted property nor any possession was given to him nor any loss has been caused to anybody. Even if it is taken that accused Tehal Singh has given the bid in the name of M/s A.B. Financer Pvt. Ltd., which was not got registered at that time and he might have to get registered it immediately, even then, it will not amount to cheating. He has

not induced any person. Rather, at the time of arguments, it is admitted that

money deposited at the time of giving bid, has not been returned to him. The perusal of the record shows that accused Tehal Singh has been put on loss. Same plot was given to K.C.Arora and Neelam Arora in the name of M/s A.B. Marketing Pvt. Ltd. and the present petitioner is alleging that they get the same allotted, by forging his signatures. Qua that, FIR against K.C.Arora and Neelam Arora, is already there. In these circumstances, learned JMIC, Chandigarh, after appreciating the evidence in right perspective, acquitted the accused.

The perusal of the findings given by both the Courts below shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by both the Courts below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed.

In view of the above discussion, I find that the impugned judgments passed by learned Courts below are correct, as per law and do not require any interference from this Court.

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

November 12, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No