

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

CRR No.3616 of 2017.

Decided on:-September 19, 2018.

Jeet Singh alias Ajit Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Balbir Singh Jaswal, Advocate
 for the petitioner.

HARI PAL VERMA, J.

The petitioner-complainant has filed the present revision petition against the judgment dated 15.07.2017 passed by learned Additional Sessions Judge, Amritsar whereby his appeal against the judgment dated 08.09.2014 passed by learned Judicial Magistrate 1st Class, Amritsar acquitting the respondents No.2 and 3-accused, was dismissed.

Briefly stated, FIR No.437 dated 26.10.2007 under Sections 420, 467, 468, 471, 379 and 120-B IPC was registered against the respondents No.2 and 3, namely, Ashok Mahajan and Anju Mahajan at Police Station Sadar Division Amritsar at the behest of the petitioner-complainant.

In his complaint, the complainant had alleged that he does business of property dealing with respondents No.2 and 3. Ravi Mahajan is a permanent advocate of respondents No.2 and 3. He is having bank account

No.593 at State Bank of Patiala. He got issued a cheque book No.539 containing 10 pages from serial No.156031 to 156040, which remained under his custody and bearing his signature. On 19.11.2005, the complainant went to Pawan Nagar for shopping. After shopping, he came to the house of accused Anju Mahajan, where her husband Ashok Mahajan was also present. After taking tea from there, he came back to his house. He was having 2-3 bags and one hand bag in which some papers and one cheque book was lying. On return to his house, he saw that his hand bag was not in his possession. He tried to find the same, but in vain. Thus, on 29.11.2005, he lodged a Rapat No.33 at Police Station Vijay Nagar and closed his bank account. He used to sign and appended his thumb impressions on the papers in good faith. He is fully confident that accused Anju Mahajan had stolen his hand bag in which some urgent papers and some cheques were lying. Now she is blackmailing him. Further he came to know that accused Anju Mahajan and Ashok Mahajan prepared a false and fabricated agreement of land measuring 200 square yards by committing fraud and by impersonating the signatures of her daughter-in-law Narinderjit Kaur, who owned the said plot measuring 300 square yards. They also impersonated the signatures of complainant on the agreement as a witness. When he requested the accused to return those papers and cheque book to him, they demanded Rs.12,00,000/-. Thus, both the accused have committed fraud with him. On the basis of this application, the aforementioned FIR was registered.

After completion of investigation, report under Section 173 Cr.P.C. was filed in the Court. The copy of report along with other documents

was supplied to the accused, as envisaged under Section 207 Cr.P.C. Finding a prima facie case against the respondents No.2 and 3, they were charge-sheeted under Sections 468, 379, 467, 471 and 120-B IPC, to which they did not plead guilty and claimed trial.

In support of its case, the prosecution examined the petitioner-complainant as PW1, Inspector Surinder Singh (retired) as PW2, Jugal Kishore as PW3, Inspector Shiv Darshan as Ex.P4, Vidya Sagar as PW5 and Sukhpreet Kaur, finger prints and handwriting expert as PW6.

Thereafter, statements of respondents No.2 and 3 were recorded under Section 313 Cr.PC wherein they denied all the allegations levelled against them and pleaded innocence. In their defence, they examined Prabhjot Kaur, Registry Clerk as DW1, Rajesh Kumar as DW2, Vikas Sodhi as DW3, Rakesh Kumari as DW4 and respondent No.2 Ashok Mahajan as DW5.

After conclusion of evidence produced by both the parties and hearing their respective evidence, learned trial Court had acquitted the respondents No.2 and 3 of the charge framed against them vide impugned judgment dated 08.09.2014.

Aggrieved against acquittal of the respondents No.2 and 3, the petitioner-complainant preferred an appeal before the Court of Session, but the said appeal was dismissed by learned Additional Sessions Judge, Amritsar vide judgment dated 15.07.2017.

It is in these circumstances, the petitioner-complainant has filed the present revision petition.

Learned counsel for the petitioner-complainant has argued that the impugned judgments passed by learned Courts below suffer from legal infirmities. The impugned judgments passed by the Courts below are against the law as well as evidence produced on record.

He has further argued that the Courts below have erred in not appreciating the cogent, reliable and trustworthy evidence adduced by the petitioner and other prosecution witnesses and, therefore, the impugned judgments passed by the Courts below are not sustainable in the eyes of law and are liable to be set aside.

I have heard learned counsel for the petitioner.

At the outset, it would be relevant to mention here that there are concurrent findings given by the Courts below in favour of the respondent No.2 and 3-accused. The scope of revisional jurisdiction is vested with limited powers. Hon'ble Supreme Court in ***Johar and others Versus M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

In ***Venkatesan Versus Rani and another 2013(4) RCR (Criminal) 919***, the Apex Court has held that while examining an order of acquittal, the revisional jurisdiction of the High Courts is extremely limited

and the same should be exercised only in case where the trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence. The language of Section 401 Cr.P.C. makes it amply clear that there is no power vested in the High Court to convert a finding of acquittal into one of conviction. The relevant paragraph No.7 of the said judgment reads as under:

“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code. Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is no power vested in the High Court to convert a finding of acquittal into one of conviction.”

Moreover, perusal of the impugned judgments passed by learned Courts below reveals that petitioner Jeet Singh has admitted in his cross-examination that various complaints have been filed against him by accused Ashok Mahajan and Anju Mahajan under section 138 of the Negotiable Instruments Act. Thus, in case the petitioner-complainant was aware of the fact that his cheque book was signed by him, and cheques were stolen by accused Ashok Mahajan and Anju Mahajan, there must have been evidence

on record that he gave applications to the concerned Bank or the higher Police authorities that his cheques are being used in the complaints under section 138 of the Negotiable Instruments Act. He must have also requested the concerned Bank for stopping the payment of the said cheques to accused Ashok Mahajan and Anju Mahajan. However, there is no such evidence available on record. Even the statement of Jugal Kishore (PW3) is not helpful for the complainant, as he deposed that the cheques were left by the complainant in the house of Ashok Mahajan and Anju Mahajan, but he is not aware whether any DDR was got recorded by complainant Jeet Singh. He is not aware about any publication of any newspaper regarding loss of the cheques.

Record further reveals that so far as the offence under Sections 420, 467, 468, 471 and 120B IPC regarding the forgery of the documents pertaining to the property of Narinderjit Kaur i.e. daughter-in-law of the complainant is concerned, the complainant while appearing in the witness box as PW1 has deposed that the accused prepared a forged and fabricated agreement of the property of Narinderjit Kaur. However, said Narinderjit Kaur never appeared in the Court to depose that her agreement to sell was prepared illegally by respondents No.2 and 3-accused. On the other hand, respondents No.2 and 3-accused in their defence evidence have proved on record that Ravinder Kumar Sharma through Pankaj Kumar through Jeet Singh, special power of attorney executed an agreement to sell dated 11.02.2014 of the property in question in favour of accused Anju Mahajan.

It is a settled law that the prosecution is required to prove its case beyond all probabilities. The accused is considered to be innocent unless proved guilty by the prosecution by leading cogent evidence. However, in the present case, the petitioner-complainant has not been able to prove his case against respondents No.2 and 3 beyond shadow of reasonable doubt. The petitioner-complainant has also not been able to prove that in what manner, impugned judgments passed by the Courts below suffer from illegality, irregularity or perversity which may warrant interference of this Court by invoking its revisional jurisdiction.

Accordingly, the judgment of acquittal dated 08.09.2014 passed by learned Judicial Magistrate 1st Class, Amritsar and the judgment dated 15.07.2017 passed by learned Additional Sessions Judge, Amritsar are affirmed and the present revision petition, being devoid of any merit, is dismissed.

September 19, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No