

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

CRR No.42 of 2019

DATE OF DECISION:-14.01.2019

ASHOK

...PETITIONER...

V.

STATE OF HARYANA

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Baljeet Beniwal, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

This revision has been filed against order dated 11.12.2018 passed in revision filed by complainant-Narinder Kumar.

Briefly, according to the complainant co-accused of the petitioner namely Jai Bhagwan @ Pillu seduced son of the complainant namely Amandeep Dhull to stake (satta) in cricket matches and defrauded him for Rs.19 lakh. Thereafter, said accused Jai Bhagwan @ Pillu, Surender @ Kala and Manoj @ Baljeet kidnapped the son of the complainant from his house at gun point and took him to the office of some property dealer called as Malik Real Estate. They obtaining signatures of the son of the complainant on gun point on some blank cheques, then took him to the office of a document writer and got executed promissory note from him with a threatening that in case, he would not return Rs.30 lakhs in the month of June, he would be dealt with

accordingly, propagating themselves to be criminals. Due to the above threat and mis-happening, son of the complainant namely Amandeep Dhull started remaining perturbed. On asking of the complainant from him, his son disclosed that accused have trapped him into a cricket satta by seducing him and defrauded for Rs.19 lakhs. The accused had further demanded Rs.30 lakhs over and above the said amount of Rs.19 lakhs. Thereafter, the accused persons with the help of their co-accused Hardeep Chahal, Jagjit Chahal filed three separate complaints under Section 138 of the Negotiable Instruments Act (for short, "Act") against the son of the complainant for Rs.9 lakh, 4 lakh, 7 lakhs respectively against the cheques, which they had forcibly taken from the son of the complainant. The above said accused are of criminal nature and are having a licensed revolver obtained by Surender @ Kala on false affidavit on the basis of fictitious and forged documents.

On these broad allegations, FIR No.333 dated 11.12.2014, under Sections 365, 348, 386, 506 and 120-B IPC at Police Station Civil Line, Kaithal was registered against 7 persons. During investigation, complainant compromised with one co-accused Ashok Kumar son of Subhash and executed an affidavit in his favour.

After completion of necessary investigation, final report under Section 173 (2) Cr.P.C. was filed against 6 co-accused. Thereafter, supplementary challan was filed against the petitioner. But the petitioner was discharged on the ground that complainant had compromised with

Consequently, the petitioner was made a prosecution witness and he entered into witness-box as such. However, when the complainant came to know that the petitioner has wrongly been discharged due to mistaken identity of the petitioner as his father's name is altogether different from Ashok Kumar with whom the complainant had compromised, he approached the revisional court, who set aside the order of discharge dated 17.10.2018, directing the trial court to reconsider framing of charge against the petitioner.

Learned counsel for the petitioner contends that the revisional court erred in setting aside the order of discharge of the trial court vide impugned order dated 11.12.2018, without affording an opportunity of hearing to the petitioner. In support of his above contention, he has placed reliance upon **2009(1) RCR (Criminal)531, Raghu Raj Singh rousha vs. M/s Shivam Sundaram Promoters (P) L & anr.** and 2012 (12) SCC 321, A.N. Santhanam vs. K. Elangovan.

Having given anxious consideration to the submissions made by learned counsel for the petitioner, this Court does not find any merit in the instant petition, as on date there is no adverse order against the petitioner, inasmuch as the revisional court has simply directed the trial court to reconsider the framing of charge against the petitioner. Thus, the petitioner would certainly get a chance to put forth his stand before the trial court.

The grouse of the petitioner that he was not heard by the

revisional court before passing the impugned order is meritless in view of

the fact that when it was brought to the notice of revisional court that complainant had compromised the matter with one Ashok Kumar son of Subhash Chand and not with petitioner-Ashok Kumar son of Ramesh Kumar, it set aside the order of trial court. Therefore, it is evident on record that trial court has wrongly discharged the petitioner treating him the son of Subhash Chand with whom the complainant had compromised.

The authorities relied upon by learned counsel for the petitioner are completely distinguishable being not identical to the present case. Therefore, no benefit of the same can be given to the petitioner.

In view of the above discussion, the instant petition is dismissed.

14.01.2019
sonika

(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No