

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

**CRR No.398 of 2019 (O&M)
Date of decision: 07.03.2019**

Suba Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.P.S. Aulakh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Gurmandeep Brar, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this revision petition is for setting-aside the judgment of conviction dated 23.02.2017 vide which the petitioner was held guilty of offence punishable under Section 420 of the Indian Penal Code, 1860 (in short 'IPC'), however, he was acquitted under Sections 465/467/468/471 IPC and the order of sentence dated 23.02.2017 vide which he was sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month as well as the judgment dated 19.01.2019 passed by the Lower Appellate Court vide which the appeal filed by the petitioner was dismissed and the appeal filed by the complainant challenging the order

of acquittal of the petitioner under Sections 465/467/468/471 IPC, was also dismissed.

Brief facts of the case are that on 15.04.2010, the complainant Baldev Raj has entered into an agreement with accused for purchasing a plot of 17 marlas for Rs.26,69,000/- and the complainant has paid earnest money of Rs.6 lacs on 15.04.2010 in the presence of Kulwinder Singh and Dharampal, both residents of Nadala and the date fixed for registration of the sale deed was 15.06.2010. On 10.06.2010, the complainant had paid another Rs.6 lacs to the accused and they have agreed to postponed the date of registration till 01.09.2010. On 01.09.2010, again the complainant paid a sum of Rs.5 lacs to the accused in the presence of Kulwinder Singh and Natha Singh and thereafter, the date of registration was again changed to 01.12.2010. Before 01.12.2010, the accused came to complainant and told that he cannot execute the sale deed as the party from whom he had purchased the land has not executed the sale deed in his favour. Then, the complainant demanded Rs.17 lacs, which was paid by him to the accused alongwith damages. The accused agreed to pay Rs.50,000/- in addition to the amount of Rs.17 lacs, which the complainant has paid to him. Thereafter, the accused issued 02 cheques, one of Rs.7,50,000/- dated 26.01.2011 and the second cheque of Rs.10,00,000/- dated 31.01.2011 and the accused has taken back the agreement from the complainant after taking his signatures on its back. Thereafter, the complainant presented the cheques in his account before the Andhra Bank at Kapurthala, which were returned to him as the same were dishonoured by the bankers of the accused. Thereafter, the complainant

met the accused and the accused told him that he is unable to give the whole amount in one go. Again, the complainant met the accused on 25.08.2011 and on that day, the accused gave him a cheque of Rs.1,15,000/- and Rs.20,000/- in cash, total amounting to Rs. 1,35,000/- and this cheque of Rs.1,15,000/- was honoured and cleared by the banker of the accused. Thereafter, the accused gave him a cheque of Rs.16,15,000/- dated 30.04.2011 in his favour but this cheque got bounced on its due date since there was insufficient funds in the account of the accused. Again he went to the accused and told him about the dishonour of the cheque, on which the accused again told him that after few days the complainant should present the cheque and the same would be honoured. Again, the complainant presented the cheque, and the same was also dishonoured and he visited the accused who did not listen to him. Thereafter, the complainant moved an application before the Senior Superintendent of Police, Kapurthala.

On presentation of the challan, charge under Sections 420/465/467 468/471 IPC was framed against the accused, to which he did not plead guilty and claimed trial.

The prosecution examined Baldev Raj as PW1, Harish Chander Ghai as PW2, Anshu as PW3, Rajesh Malhotra as PW4, ASI Mukhtiar Singh as PW5 and Kulwinder Singh as PW6. Thereafter, prosecution evidence was closed.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The

appellant/accused denied all the allegations of the prosecution and claimed innocence. However, no defence evidence was produced by the petitioner/accused.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted the petitioner/accused under Section 420 IPC and sentenced him to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 01 month, however, the petitioner/accused was acquitted under Sections 465/467/468/471 IPC.

Feeling dissatisfied with the judgment of conviction dated and order of sentence dated 23.02.2017, the accused/petitioner has preferred an appeal before the Lower Appellate Court whereas the complainant challenged the judgment of acquittal of the petitioner under Sections 465/467/468/471 IPC, however, both the appeals were dismissed by the Lower Appellate Court on 19.01.2019. Hence, the petitioner/accused has preferred the revision petition before this Court.

On 15.02.2019, it was noticed that the petitioner has not surrendered before the trial Court and he was directed to surrender before the trial Court and noticing the fact that there is a compromise between the parties, the trial Court was also directed to record the statement of the petitioner as well as the complainant and submit the report.

A report dated 26.02.2019 has been submitted by the trial Court that the complainant as well as the accused/petitioner have

appeared before the trial Court and they got their statements recorded with regard to the compromise without any threat or influence and they have entered into the compromise voluntarily and the same is valid and genuine.

Counsel for the petitioner has submitted that the petitioner as well as the respondent/complainant have entered into a compromise and vide order dated 15.02.2019, the parties were directed to appear before the trial Court for recording their statements in support of the compromise.

Counsel for the State assisted by counsel for respondent No.2, has not disputed the factual position and filed the Custody Certificate today in the Court. It is further submitted that the petitioner is not involved in any other case.

After hearing the counsel for the parties, I find merit in the present revision petition. The complainant in his statement has stated that with the intervention of the respectables and in order to maintain peace and harmony between the parties, he has entered into the compromise without any threat or coercion. It is further stated that he has no objection if the present FIR is quashed against the petitioner/accused.

Similar statement has been made by the petitioner/accused.

Inspector Mukhtiar Singh, the Investigating Officer, has stated that only the petitioner is the accused person and the FIR in question, was registered at the instance of the complainant/victim namely Baldev Raj.

In ***“Sube Singh and another vs State of Haryana and***

another”, 2013 (4) RCR (Criminal) 102, the Division Bench of this Court has held that *even after conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers under Section 482 Cr.P.C, can compound the offence.*

Since the petitioner/accused is not involved in any other case; he has surrendered before the trial Court in compliance of the order dated 15.02.2019 passed by this Court and the matter stood compromised between the parties as well as in view of the law laid down by the Hon'ble Division Bench of this Court in ***Sube Singh and another's case (supra)***, this criminal revision petition is ***partly allowed*** while upholding the judgment of conviction and the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the imposition of fine of Rs.2,000/- is upheld. The petitioner is directed to deposit the fine, if not deposited so far, within a period of 01 month from today.

With the aforesaid modifications, the present revision petition is disposed of.

The petitioner be released forthwith, if he is not required in any other case.

07.03.2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No