

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2485-2014 (O&M)

Date of decision: 13.02.2019

Naresh Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. SS Katnoria, Advocate for the petitioner.

Mr. Raj Kumar Makkar, Senior DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Petitioner-Naresh Kumar, was booked and tried in case FIR No. 88 dated 01.04.2009, under Sections 420, 468, 471 and 120-B IPC at Police Station Civil Lines, Bhiwani, on the allegations that he had obtained a loan of Rs. 5,00,000/- (Rupees Five Lakhs) from State Bank of Patiala, Mini Secretariat, Bhiwani, under the Kisan Gold Card Scheme, by producing copies of jamabandies for the years 2004-05 and khasra girdawri for the year 2005-06, claiming himself to be owner of land measuring 86 kanals 06 marlas situated in village Nigana Khurd, Tehsil Tosham, District Bhiwani, as a collateral security. The said land was mortgaged vide registered mortgage deed dated 02.05.2007. Various other documents were also obtained from the petitioner like hypothecation agreement, agreement letter, letter of understanding etc. However, on enquiry, the Halqa Patwari, vide his report dated

05.12.2008, reported that petitioner was not owner of the said land, therefore, he had fraudulently obtained the loan by producing fake and forged papers. After holding trial, vide judgment of conviction dated 12.03.2013 and order of sentence dated 14.03.2013, the petitioner was held guilty under Sections 420, 468 and 471 IPC and sentenced as under:-

<u>Under Section 420 IPC</u>	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1000/-. In default thereof, to further undergo simple imprisonment for six months.
<u>Under Section 468 IPC</u>	To undergo rigorous imprisonment for a period of three years years and to pay fine of Rs.1000/-. In default thereof, to further undergo simple imprisonment for three months.
<u>Under Section 471 IPC</u>	To undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1000/-. In default thereof, to further undergo simple imprisonment for three months.

All the sentences were ordered to run concurrently.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide judgment dated 05.06.2014.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that the complainant-Bank did not produce original loan documents allegedly executed by it in favour of the petitioner. Both the Courts below have wrongly convicted the petitioner, without appreciating that complainant-Bank has failed to prove essential ingredients for commission of offence under Sections 420, 468 and 471 IPC.

On the other hand, learned State counsel vehemently refuting

the submissions of learned counsel for the petitioner, pleaded the legality and validity of impugned judgments.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision 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 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 appreciation of evidence. Therefore, the same are not required to be interfered with.

Perusal of trial Court record shows that certified copies of entire loan documents have been produced by the complainant-Bank. Therefore, it does not lie in the mouth of learned counsel that the petitioner has wrongly and illegally been convicted, on the basis of photostat copies of loan documents. Perusal of statement of PW-3 PK Chawala, shows that in cross-examination, this witness clarified that original record was submitted by the bank in a civil suit against the petitioner. Therefore, it is quite natural that complainant-Bank had left with no option, but to produce certified copies of the documents in the impugned criminal case against the petitioner.

More so, the petitioner or his counsel never objected to the loan documents executed by him, at the time of their exhibition, which shows that he admitted execution of those documents. Both the Courts below have recorded concurrent findings against the petitioner.

I have carefully gone through the judgments of both the Courts below and find no illegality or perversity in the same. The instant revision, being meritless, is dismissed.

A copy of this order be sent to the Chief Judicial Magistrate, Bhiwani, who shall issue warrants of arrest against the petitioner to undergo remaining part of the sentence.

February 13, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No