

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

**CRR No.1164 of 2018 (O&M)
DECIDED ON: 13.02.2019**

BALBIR SINGH

...PETITIONER...

VERSUS

STATE OF HARYANA

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Karan Singh, Advocate,
for the petitioner.

Mr. Raj Kumar Makkar, Sr. DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this revision challenge has been laid to judgment of appellate court dated 05.01.2018, whereby appeal of the petitioner was dismissed, thereby affirming the judgment of conviction and order of sentence of the trial court dated 30.07.2014, holding the petitioner guilty under Sections 409, 468 and 471 IPC and sentenced him to undergo rigorous imprisonment for a period of 3 years each under Sections 409 and 468 IPC and for a period of two years under Section 471 IPC with fine of ₹10,000/- in all. In default of payment of fine, to further undergo rigorous imprisonment for a period of 6 months.

Briefly, the petitioner was booked, tried and convicted in FIR No.291 dated 11.11.2008 in the manner as narrated above, on the allegations that petitioner embezzled a sum of ₹10,91,406/- during the

financial year 2005-06, 2006-07, while working as Secretary of Cooperative Society in the name of Debt and Service Society Ltd. Dalamwala .

Being aggrieved, petitioner approached first appellate court, but remained unsuccessful, as his appeal too, was dismissed vide judgment dated 05.01.2018.

Learned counsel for the petitioner contends that both the courts below have failed to appreciate that petitioner has been convicted on the basis of photostat copies. Investigating Officer, SI Dilawar Singh (PW-5) had returned the original vouchers/receipts to PW-9 Satpal Bhoshle, Secretary of the society. Only, photostat copies of these vouchers were sent to FSL for comparison. The original documents were never taken into possession. Moreso, the petitioner could not have been convicted under Section 409 IPC, being not a public servant. In support of his contention, he has relied upon judgment of this Court titled as "*State of Punjab vs. Kesari Chand*", **1987 (1) RCR (Criminal) 297.**

On the other hand, learned State counsel pleading the legality and validity of judgments of both the courts below, contended that petitioner embezzled an amount in a long span by regularly collecting money from the members of the society against their debts and depositing less.

Having given anxious consideration to the rival submissions,

this Court finds the instant petition completely devoid of any merit for

the reasons to follow:-

1. No question of law, much less substantial, has been raised in this petition.

2. Both the courts below have recorded concurrent findings against the petitioner holding him guilty under Sections 409, 468 and 471 IPC and sentenced as narrated above.

3. This Court, being revisional court has a very limited jurisdiction, which can only be exercised on 3 following infirmities:-

(i) if the courts below have exceeded their jurisdiction; (ii) have exercised their jurisdiction illegally and; (iii) have not exercised their jurisdiction diligently.

4. Learned counsel for the petitioner has not been able to point out any such infirmities.

5. It does not lie in the mouth of learned counsel for the petitioner that conviction of the petitioner was based on the photocopies, inasmuch as, few of the original receipts marked as 1 to 7 are lying on the file. In Mark 8, details have been given of about some amount, which must have been collected by the petitioner. That apart, petitioner never objected to the exhibition of documents at the time of production of the photocopies by the prosecution, which by, in itself is sufficient to draw inference against the petitioner that he admitted the same as genuine and correct.

6. The contentions raised by learned counsel for the petitioner before this Court have already been dealt with by the courts

below after appreciation of evidence, therefore, their further dealing would be a repetition and wasting of precious time of the Court.

7. The authority cited by learned counsel for the petitioner relates to Punjab Cooperative Societies Act, 1961, whereas, the society, in which, the petitioner was working as Secretary is governed by the provisions of Haryana Cooperative Societies Act, 1984. Undisputedly, State government accords grants to every society. Therefore, every society exercises its subsidiary function of the State government. Therefore, the petitioner being working as a Secretary was a permanent employee of the society. Moreso, the above contention of learned counsel for the petitioner has already been dealt with by the first appellate court.

I have gone through judgments of both the courts below. They are well reasoned, being based on appreciation of facts and evidence and thus, do not require any interference by this court.

Dismissed.

Copy of this order be sent to concerned Chief Judicial Magistrate for issuance of arrest warrants of the petitioner to undergo the remaining sentence, if any.

13.02.2019

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**Whether speaking/reasoned
Whether reportable**

**(RAMENDRA JAIN)
JUDGE**

**Yes/No
Yes/No**