

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2636 of 2018

DATE OF DECISION: APRIL 29, 2019

MELA SINGH

...PETITIONER

VERSUS

RAM LUBHAYA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. UPENDER PRASHER, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

Petitioner Mela Singh has filed the present petition challenging the judgement dated 16.1.2018 passed by the Sessions Judge, Jalandhar dismissing the appeal and upholding the judgement of acquittal dated 19.10.2016, passed by the Judicial Magistrate 1st Class, Phillaur.

Brief facts leading to registration of FIR in the present case is that an application dated 7.6.2009 was moved by the petitioner before the Sr. Superintendent of Police, Jalandhar against the fraud committed with him. It was stated that his brother-in-law (Sala) Paramjit Singh son of Tarsem Lal was an illegal migrant at Spain and Tarsem Lal son of Ram Lubhaya was also residing at Spain on permanent basis. In the year 2007, Tarsem Lal came to India and asked the petitioner to help him for getting permanent citizenship for Paramjit and demanded 1,50,000/- which was paid to him in the presence of one Balihar Singh. However, neither Paramjit Singh got permanent citizenship nor said ₹1,50,000/- was returned to him.

The said application was enquired into and the on the basis of enquiry, FIR No.124 dated 27.10.2009, under Sections 420 and 406 IPC was

registered at Police Station Goraya, District Jalandhar. Charges were framed and the trial commenced.

The trial Court after examining the material available on record held that the complainant has failed to prove the charges against the accused beyond the shadow of reasonable doubt and acquitted the accused of all the offences levelled against him. The appeal filed by the complainant was dismissed.

Heard learned counsel for the petitioner and perused the case file carefully.

Both the Courts have held that prior to the application on the basis of which the present FIR was registered, two other similar complaints were given before the Police, whereupon no action was taken and the alleged accused was declared innocent.. The alleged transaction made in the presence of one Balihar Singh has not been endorsed by the said witness. Rather, Balihar Singh turned hostile to the case of prosecution. Said Paramjit Singh for whose permanent citizenship the petitioner allegedly handed over ₹1,50,000/- to the accused was never cited as witness to prove the fact that he was residing in Spain illegally, even though it has come in the cross-examination of the petitioner that said Paramjit Singh used to visit India frequently. It is also not understandable as to how a native of India living illegally abroad can visit India frequently.

The judgement of the trial Court as well as the appellate Court is founded on correct appreciation of the material on record. The view adopted is a possible view and therefore, no ground is made out to reappreciate the evidence in revisional jurisdiction and disturb the

judgement of acquittal passed in favour of the respondent.

Petition is dismissed.

April 29, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No