IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4546-2016 (O&M)
Date of decision: 02.05.2019

Jai Parkash

... Petitioner

Vs.

Satish and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Anil Kumar Sharma, Advocate
for the petitioner.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the judgment of acquittal dated 11.03.2014 passed by the trial Court in FIR No.462 dated 09.06.2006 under Sections 420, 467, 468, 471, 506 of the Indian Penal Code (for short 'IPC'), Police Station City Gurgaon as well as the judgment dated 18.05.2016 passed by the lower appellate Court, dismissing the appeal filed by the State.

Brief facts of the case are that complainant Jai Parkash got recorded the FIR and made a statement that he had taken phone No.3293486 from Reliance Company, at his house and on the same, calls were received from Mobile Nos.9811840346, 9313990665 & 9868484811, from which accused persons Parmod, Sharda and Rakesh @ Tillu had made calls in March, 2006

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and the same were attended to by him and his wife. The accused persons have used abusive language and threatened his family. He could recognize the voice of accused persons, as he was known to them individually. On inquiry made by him, Mobile No.9811830346 was issued in his name and his address was shown of Rajiv Nagar, Gurgaon, where he never lived and never applied for this number and the same was obtained in collusion with telephone agent, by forging some documents and his signatures. Thereafter, the complainant inquired about Mobile No.9313990665, being used by accused Satish, which has been issued in the name of R/Arora, Sector-4, Gurgaon in August, 2003, whereas said R/Arora expired in March, 2003. The complainant has also inquired about Mobile No.9868484811, which was being used by Rakesh @ Tillu and the same was found to be issued in the name of one Dayal Singh, DRDO Camp, Delhi Cantt, pankha Road. Thus, all the accused persons had obtained the mobile numbers illegally and had caused damage to the complainant economically and socially and on basis of the same, aforesaid FIR was registered against the accused persons.

After completion of the investigation, the police submitted the report under Section 173 Cr.P.C. and thereafter, the trial Court framed charge under Sections 420, 467, 468, 471, 506 IPC. The prosecution, in support of its evidence, examined 10 witnesses and the evidence was closed by the Court order on 16.10.2013. The trial Court, thereafter, recorded statement of the accused under Section 313 Cr.P.C., in which the accused denied the incriminating evidence against them and pleaded false implication. The accused persons in their defence also led some evidence.

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The trial Court, vide impugned judgment dated 11.03.2014, acquitted the respondents-accused and held that from the perusal of testimony of many witnesses i.e. PW2 Pavitra Devi, PW3 Rohit Kumar and PW4 Sudhir, it is apparent that they have not supported the prosecution version. PW5 Bhupender Taneja stated that he had come to the Court on asking of complainant Jai Parkash. On appreciation of the evidence, the trial Court has held that the prosecution has failed to prove the guilt of the accused persons.

The State preferred an appeal before the lower appellate Court and on re-appreciation of the evidence, the lower appellate Court held that it is apparent that many of the prosecution witnesses were declared hostile and even in the cross-examination, the Public Prosecutor could not take out any positive evidence in favour of the prosecution. The lower appellate Court also recorded a finding that since daughter of the complainant-petitioner namely Sunita had eloped away with one Parshant, therefore, the accused were falsely implicated in the present FIR.

Learned counsel for the petitioner has argued that both the Courts below have not afforded sufficient opportunity to conclude the entire evidence, however, he could not deny the fact that the order, closing the prosecution evidence, was never set aside by the revisional Court and the same has attained finality. Though scope of the present revision petition against the concurrent findings of acquittal is limited to the extent that only on jurisdictional error or an error apparent on record, this revision petition can be entertained, still after going through the statement of PW1 Jai Parkash, PW2 Pavitra Devi, PW3 Rohit Kumar and PW4 Sudhir, who are the material witnesses, nothing is made out to

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prove the charge under Sections 420, 467, 468, 471, 506 IPC.

In view of the above, I find no ground to interfere in the concurrent findings recorded by both the Courts below.

Accordingly, the present revision petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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