

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

CRR-125-2021 (O&M)

Date of Decision: February 15, 2021

Punjab Agro Industries Corporation Limited, Kapurthala

... Petitioner

VERSUS

Sudesh Kumar Aggarwal

.... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Ankit Kumar, Advocate
 for the petitioner.

JAISHREE THAKUR, J.(Oral)

1. The instant revision petition has been filed by the petitioner seeking to assail the impugned judgment dated 13.01.2020 passed by the Sessions Judge, Kapurthala dismissing the appeal filed by the petitioner against the judgment dated 01.02.2016 passed by the Judicial Magistrate 1st Class, Kapurthala, whereby the respondent alongwith one Kamini Devi were acquitted of all charges levelled against them.

2. In brief, the facts are that one Yashpal Gupta, who was posted as District Manager, Punjab Agro Industries Corporation Ltd., Kapurthala (hereinafter referred as Punjab Agro) appointed M/s Kapurthala Rice Mills, Kapurthala vide letter dated 18.10.2001 for custom milling of paddy. The Punjab Agro was also to store its paddy in the premises of M/s Kapurthala

Rice Mills. In this regard, an agreement was entered into between M/s Kapurthala Rice Mills and the Punjab Agro, which agreement was signed by Sudesh Kumar, Vinod Kumar, Mrs. Kamini Devi on behalf of M/s Kapurthala Rice Mills, whereas Yashpal Gupta signed the agreement on behalf of the Punjab Agro. On account of alleged misappropriation of 18,000 quintals of paddy and the wrongful loss caused to the Punjab Agro amounting to ₹1.25 crores, a team was deputed to count paddy stored within the premises of M/s Kapurthala Rice Mills and a report was prepared in this regard. A complaint dated 20.09.2002 was forwarded to the SSP, Kapurthala regarding the misappropriation of paddy and for taking legal action. Consequently FIR No.37 dated 30.9.2002 was registered under Section 405, 406, 420, 120B of IPC read with Section 7 of the Essential Commodities Act at Police Station City Kapurthala. Pursuant to the investigation done, a challan was presented against respondent and Kamini Devi and charges were framed. The prosecution in order to substantiate its claim examined Avtar Singh, PW1, Ajit Kumar PW2, Suresh Kumar, PW3, Mukhtiar Singh, PW4, Yashpal Gupta complainant as PW5, DK Gupta as PW6, Sukhdev Singh as PW7, Surinder Singh as PW8 and Suresh Kumar as PW9. Thereafter the prosecution closed its evidence and the statements of the accused were recorded under Section 313 Cr.P.C. In defence, the accused tendered copies of judgments passed by the Additional Sessions Judge, Kapurthala as Ex. D1 to D5 and closed their evidence.

3. On appreciation of oral and the documentary evidence, the JMIC, Kapurthala came to the conclusion that the prosecution was required

to prove the allegations of misappropriation of paddy, but failed to do so as the prosecution did not produce the original receipts pertaining to entrustment of paddy to M/s Kapurthala Rice Mills. The Sessions Judge Kapurthala in an appeal upheld the decision on the similar grounds. Aggrieved against both the orders, the present revision petition has been filed.

4. Learned counsel for the petitioner herein laid great stress on Exhibits P-3 to P-6 which according to him are receipts issued by Kapurthala Rice Mills pertaining to receipt of Grade A paddy from Punjab Agro for custom milling for the years 2000, 2001 and 2002. It is argued that in face of said Exhibits, both the Courts below have erred in coming to the conclusion that there is no evidence on record regarding entrustment of paddy by the Corporation to the miller.

5. I have heard learned counsel for the petitioner and perused the judgments passed by the Courts below. It has been noticed that only photocopies of the record and receipts were produced in evidence whereas the original papers as per the statement of PW-7 Sukhdev Singh were available in the office and had not been produced as Exhibits. Reliance was also placed on the statements of the prosecution witnesses, who had specifically stated that at the time when the physical verification of paddy was done, which was lying under the control and possession of the department at the premises of the miller, none of the accused was present on the spot. Based on lack of any evidence to show entrustment and on account of the fact that none of the accused was present at the time of

physical verification, it was held that the prosecution had failed to prove its case. Further, both the orders passed by the Courts below have taken into account the evidence led as well as the fact that there was no original receipt on the record to show entrustment.

6. Finding no infirmity with the orders passed by both the Courts below, the present petition stands dismissed.

February 15, 2021

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No