

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-693-2022 (O&M)

Decided on 29.08.2022

Azadwinder Singh

... Petitioner

VS.

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice Sandeep Moudgil

Present: Mr. Suneel Sharma, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

This criminal revision petition is directed against the judgment dated 18.07.2019 passed by learned JMIC, Amloh as well as the judgment dated 04.04.2022 passed by the Additional Sessions Judge, Fatehgarh Sahib vide which the petitioner is convicted under Section 420 IPC and sentenced to undergo RI one year and 6 months with fine of Rs.1000/-

Briefly stated the case of the prosecution is that on 02.12.2011, one Jodh Singh son of Harchand Singh moved application to SSP Fatehgarh Sahib against the petitioner that in the year June 2010, he met the petitioner, who allured him to adjust him in Singapore in a profession and regarding which he also promised to procure work permit and misled complainant that he will also get handsome salary. Petitioner also convinced family members of complainant and further told complainant that Rs.5 lacs would be the expenses and due to which father of complainant sold his ancestral house and arranged Rs.2,35,000/-, which was handed over to petitioner in the presence of Namberdar Ajaib Singh and neighbour Ranjit Singh. Petitioner also took

passport, photographs and other documents from complainant and promised to send complainant abroad. After some time, complainant contacted petitioner/accused, who told him that there is some problem in work permit at Singapore and he will send complainant to Tanzania, where he will get some more salary. Accused/petitioner also gave one document to complainant on which enhanced salary and overtime details were given. Complainant agreed to the same and thereafter petitioner came to the house of complainant, who showed complainant the Visa stamp of Tanzania on 14.07.2011, which was valid for three months and on which petitioner told that he will get the same extended. Petitioner also gave his account number for depositing amount of Rs.65,000/- and then complainant by arrange money from their relatives, deposited Rs.25,000/- on 30.07.2011 and deposited Rs.40,000/- on 01.08.2011. Petitioner then called complainant at Delhi by saying that ticket has been confirmed. On 03.08.2011, complainant was sent to Tanzania, where he could not get the work as per the promise of accused/petitioner nor he received that much salary, rather complainant faced difficulties regarding food and other things. Complainant then contacted petitioner, who again assured him for the needful, but the circumstances became more uncomfortable and then complainant contacted petitioner, who said that he is calling him back from Tanzania and will get him adjusted in other country. Complainant came back, but he did not get the needful done and complainant demanded his amount back, who issued one self cheque of Rs.35,000/-, which was not having proper signature and was not having any amount in the account. Then complainant contacted petitioner, who backed out and refused to give any amount.

Complainant further came to know that the ticket arranged by the petitioner was also not confirmed. The complainant moved an application and resultantly, FIR No. 28 dated 05.05.2012 under Sections 406, 420 IPC was registered against accused/petitioner, who during investigation, was arrested. The learned JMIC, Amloh passed the judgment convicting the petitioner under Section 420 IPC and sentenced him to undergo RI for 1 year 6 months with fine of Rs.1000/-. The petitioner filed appeal which too was dismissed vide judgment dated 04.04.2022. Aggrieved the petitioner has approached this Court by way of the present criminal revision petition.

Learned counsel for the petitioner contended that the courts below have not appreciated the fact that in the Investigating Officer in the FIR has admitted, in his cross-examination, the factum of compromise arrived at between the parties. It is further contended that as per prosecution evidence also, the petitioner is not at all involved and as such he has been wrongly implicated in the present case.

I have heard learned counsel for the petitioner and gone through the record.

The allegations against the petitioner is that he cheated the complainant Jodh Singh by inducing him to deliver Rs.3 lacs to send him abroad, but failed to send him as per the promise of transaction between complainant and him.

Learned courts below have rightfully observed that as per photocopy of passport Ex.PW10/2 of complainant regarding Visa of Tanzania, it was specifically mentioned that 'employment prohibited', which means that

as falsely promised by petitioner, complainant was not to get employment at Tanzania. Thus, the intent of petitioner was only and only to cheat the complainant in present case obviously for extraneous consideration of the petitioner. It is fully established on record from the evidence led by the prosecution that the complainant arranged the money as demanded by petitioner, which was received by petitioner, who kept giving false pretext to cheat the complainant.

Learned courts below rightly observed regarding alleged compromise between complainant and the petitioner that the petitioner failed to explain as to how he arranged the amount, which he allegedly was to pay to the complainant, when he was in police custody in present case and moreover, if actually there was any compromise arrived at between the parties, then proceedings would have been definitely initiated by petitioner during the course of trial, but petitioner kept mum and in his statement under section 313 Cr.P.C he simply took the plea that he is innocent and he did not commit any fraud, which creates doubt over his plea regarding compromise.

Thus from a conjoint reading of judgments of both the courts below, the guilt of petitioner is proved beyond doubt and as such, I am of the considered view that the judgments of both the courts below do not suffer from any infirmity and as such warrants no interference by this Court.

Accordingly, the present petition is dismissed being devoid of merit.

29.08.2022

V.Vishal

(Sandeep Moudgil)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No