

(217) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1062-2019 (O&M)
Date of Decision: 07.03.2022

Inderjit Singh Basarke

... Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. D.S. Pheruman, Advocate for the petitioner.

Mr. Sidakmeet Singh Sandhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the order dated 25.03.2019 passed by the learned Additional Sessions Judge, Gurdaspur, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 21.12.2016 passed by Sub-Divisional Judicial Magistrate, Batala, convicting the appellant under Section 420 IPC, has been dismissed.

2. The brief facts of the case are that the complainant-Ramesh Kumar (respondent No.2) filed the present complaint against accused-petitioner-Inderjit Singh Basarke on the allegations that the complainant is the resident of Batala and is serving as Assistant Manager, State Bank of India, Amritsar. The complainant had friendly relation with the accused. The son of the complainant namely Saurav had a desire to settle in England. Being a friend and under this impression that the accused was a highly placed man in the society, the complainant expressed the desire of his son to the accused. In

July, 2007, the accused came to Batala and told the complainant that he can manage to send his son to England and would also arrange for his son there. For the said purpose, the accused demanded Rs.10,50,000/- from the complainant. The complainant accepted the offer of the accused and on 13.07.2007, the accused came to the house of the complainant where he handed over Rs.10,50,000/- to the accused in the presence of Kashmir Singh son of Shingara Singh, resident of Makowal and Darshan Singh son of Jarnail Singh, resident of Ajit Nagar, Aliwal Road, Batala. The accused after receiving the said amount assured the complainant that he would send his son within a few months. Thereafter, the complainant continuously kept on visiting the accused and requested him to send his son to England but he kept on putting off on one pretext or the other. Finally, the accused refused to return the money and when the complainant pressed hard to return the money, he issued a cheque of Rs.5 lakhs of Punjab National Bank Kot Khalsa Amritsar knowing full well that there was insufficient amount in his account to honour the cheque. The complainant served a legal notice to the accused regarding the return of money but to no avail. The complainant reported the matter to the police but no action was taken against the accused. Thereafter, the complaint came to be filed.

3. Based on the afore-mentioned complaint, the petitioner was summoned to face trial and after the evidence had been led, the petitioner was convicted and sentenced to undergo rigorous imprisonment under Section 420 IPC for a period of 03 (three) years and to pay fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for a period of 05 (five) days.

4. Pursuant thereto, the petitioner preferred an appeal before the Court of the learned Additional Sessions Judge, Gurdaspr, which came to be dismissed on 25.03.2019.

5. After the appeal had been dismissed, the present revision petition under Section 401 Cr.P.C. has been preferred by the petitioner before this Court.

6. That during the course of the pendency of the present petition, a compromise dated 08.05.2019 (Annexure A-1) was effected between the accused-petitioner and respondent No.2-complainant.

7. That in terms of Section 320(2) Cr.P.C., the offence under Section 420 IPC can be compounded with the permission of the Court by the person cheated. In the present case, the complainant has effected a settlement and the same is on record as Annexure A-1. He has appeared in Court today and has endorsed the said settlement as well.

8. That a perusal of Section 320(6) Cr.P.C. would show that the High Court or the Court of Session acting in the exercise of its power of revision under Section 401 Cr.P.C. may allow any person to compound an offence which such person is competent to compound under this Section. Section 320(8) Cr.P.C. states that the effect of the composition of an offence is that the accused is to be acquitted. A combined reading of Section 320(2) Cr.P.C., Section 320(6) Cr.P.C. and Section 320(8) Cr.P.C. leave no doubt that an offence under Section 420 IPC can be compounded at the instance of the person cheated, with the permission of the Court at the revisional stage and the effect of such composition is that the accused is to be acquitted. The said proposition of law has been set down in **'P. Ramaswamy Vs. State (U.T.) of**

Andaman and Nicobar Islands, 2013(3) RCR (Criminal) 760' and 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245'.

9. In view of the afore-mentioned discussion, the settlement effected between the parties and the provision of law as enumerated hereinabove, the present petition is allowed. The judgment dated 25.03.2019 passed by the learned Additional Sessions Judge, Gurdaspur and the judgment of conviction and the order of sentence dated 21.12.2016 passed by Sub-Divisional Judicial Magistrate, Batala, are hereby set aside and the petitioner-Inderjit Singh Basarke is acquitted of the charges framed against him.

(JASJIT SINGH BEDI)
JUDGE

07.03.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No