

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

**CRR-1905-2019 (O&M)
DECIDED ON: 26th AUGUST, 2022**

BALBIR SINGH

.....PETITIONER

VERSUS

BALJIT SINGH & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Tejinder Pal Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J.

CRM-23514-2019

This is an application under Section 5 of the Limitation Act read with Section 482 of the Cr.P.C. for condonation of 28 days' delay in filing the present petition.

For the reasons mentioned in the same, the application stands allowed and the delay of 28 days in filing the accompanying petition is condoned.

CRR-1905-2019

By dint of instant petition, the petitioner has impugned the judgment dated 15.03.2017 passed by the Addl. Chief Judicial Magistrate, Sangrur (for short 'trial Court'), whereby the respondents have been acquitted by the trial Court, as well as order dated 06.02.2019 passed by the Addl. Sessions Judge, Sangrur (for short 'appellate court'), upholding

the judgment of acquittal dated 15.03.2017 of the respondents.

Brief crux of the case is that the FIR in question was registered against the respondents-accused persons on the basis of a letter No.1107 dated 16.09.2009, which was addressed by the Deputy Commissioner-cum-Election Officer, Sangrur to the Senior Superintendent of Police, Sangrur, who received the said letter in his office on 11.02.2010. By virtue of the aforesaid letter, registration of FIR against the respondents-accused persons was recommended for alleged tampering with the government record during the election of Sarpanch of Village Bahadarpur, Block and District Sangrur. Accordingly, FIR No. 14, dated 11.02.2010, under Sections 468, 471 and 120-B IPC was registered at Police Station Sadar, Sangrur.

Consequently, the respondents-accused persons were booked in the FIR, in question. Investigation swung into motion. Statement of witnesses were recorded under Section 161 of the Cr.P.C. Respondents-accused persons were arrested on 25.07.2010 and 2.07.2010, however, they were released on bail as per the order of the Court. Thereafter, the respondents-accused persons moved an application before the SSP Sangrur for declaring them innocent. Consequently, a cancellation report was prepared and presented before the Court of JMIC, Sangrur for acceptance. On 02.06.2012, reinvestigation of the matter was ordered. In reinvestigation, a prima facie case punishable under Sections 468, 471, 120-B of the IPC was found to be made out against the respondents-accused persons and upon completion of the investigation, challan was

presented before the Court for commencement of trial.

Charges were framed against the respondents-accused persons under Section 468, 471 and 120-B of the I.P.C., to which the respondents-accused persons pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined PW1- ASI Gurtej Singh, PW-2 Hakam Singh, PW3 Inderjit Kaur, PW4 Manpreet Kaur, PW5 Balbir Singh, PW6 Harbans Singh, retired Inspector, PW7 Bhupinder Jain, retired Panchayat Officer, PW8 Rupinder Kaur, BDPO, PW9 Jaswinder Singh and PW10 Dhiraj Batta. Thereafter, the evidence of the prosecution was closed, vide order dated 15.03.2017.

The entire incriminating material was put the respondents-accused persons in their statements recorded under Section 313 of the Cr.P.C., which they denied and pleaded their innocence, however, they did not opt to lead any defence evidence.

Upon consideration of the entire evidence adduced and material brought on record, the trial Court acquitted the respondents-accused persons, vide judgement dated 15.03.2017.

Feeling aggrieved with the same, the petitioner-appellant filed an appeal against the acquittal of the respondents-accused persons before the Court of Session; which came up for hearing before the learned Addl. Sessions Judge, Sangrur.

Upon consideration of the rival contentions of both sides, the lower Appellate Court dismissed the appeal vide judgment dated 06.02.2019 and upheld the judgment of acquittal passed by the trial Court on 15.03.2017.

Feeling aggrieved of the same, the petitioner have filed the present Criminal Revision Petition challenging the judgments of both the Courts below.

Learned counsel the petitioner contends that both the Courts below have felled in grave error, while acquitting the respondents-accused persons. He further contends that both the Courts below have utterly failed to appreciate the evidence led by the prosecution and the material brought on record. The judgments of the Courts below are based on surmises and conjectures and have been passed contrary to the well settled propositions of law. Accordingly, the judgments of both the Courts below are liable to be set aside and the respondents-accused persons are liable to be convicted. Learned counsel for the petitioner further contends that the Courts below have acquitted the respondents-accused persons solely on the ground that the prosecution has failed to bring direct evidence on record which could show that the respondents-accused persons had tampered the official record. Even the Courts below have also ignored the fact that the Deputy Commissioner, Sangrur, had served a show cause notice upon the respondents-accused persons for the delinquency on their part. The reply of the respondents-accused persons to the said legal notice was found to be satisfactory, due to which the registration of FIR was recommended against them. But the Courts below have failed to appreciate the said fact. Learned counsel for the petitioner further contends that both the lower Courts have acquitted the respondents-accused persons by giving benefit of doubt due to the reason that the prosecution had failed to bring the tampered record on the case file. Learned counsel for the petitioner further contends that the

petitioner have suffered due to the non-proving of the case and collecting incomplete evidence by the investigating agency, whereas, there is no fault on the part of the petitioner. Even the Courts below tend to proceed on the basis of evidence led on record rather than appreciating the real facts. Learned counsel further contends that the case of the prosecution was well proved beyond shadow of all reasonable doubts, however, the Court below failed to take note of the said fact and fell in grave error while acquitting the respondents-accused persons.

I have heard the learned counsel for the petitioner and have also gone through the case file including the accompanying annexures.

After hearing the learned counsel for the petitioner, this Court is of the opinion that the learned counsel for the petitioner has utterly failed to bring any impropriety or perversity in the judgments passed by both the Courts below. It is apparently clear that the counsel for the petitioner has himself admitted that the Courts below have passed the judgments on the basis of evidence led on record by the prosecution, however, at the same time it has also been argued by the learned counsel for the petitioner that the Courts below have failed to appreciate the real facts. The words 'real facts' denote the facts that the prosecution has failed to bring on record. The learned counsel for the petitioner has himself argued that the Courts below have acquitted the respondents-accused persons while giving benefit of doubt due to non-production of tampered record on the judicial file. If it was so, then it is a grave lapse on the part of the prosecution. In order to connect the respondents-accused persons with the alleged commission of offence, it was incumbent upon the prosecution to prove its case beyond

shadow of all reasonable doubts. The case of the prosecution is that the respondents-accused persons had tampered with the government record during the elections of Panch and Sarpanch etc. in Village Bahadarpur. If it was so, then the tampered record must have been brought on the record. Apparently, the prosecution failed to do so and the Courts below have rightly acquitted the respondents-accused persons while giving the benefit of doubt.

From the perusal of record, it is also apparent that the evidence of prosecution was closed by order of the Court on 15.03.2017. During the trial an application under Section 311 of the Cr.P.C. was allowed enabling the prosecution to bring the relevant evidence on record. Still, the prosecution did not do so, as such allegation of tampering does not stand proved. Despite affording sufficient and effective opportunities, the prosecution failed to bring cogent, clinching and convincing evidence on record to prove its case beyond shadow of reasonable doubts, which resulted in acquittal of the respondents-accused persons. It is well settled law that the High Court while sitting in Revisional jurisdiction cannot appreciate the evidence led by the prosecution before the Courts below. It is thus incumbent upon the learned counsel for the petitioner to show any impropriety or perversity in the judgments passed by the Courts below. The counsel was required to show any error of law being committed by the Courts below and to show that in which and what manner the judgments passed by the Courts below are illegal and unsustainable. On the contrary, the judgments passed by the Courts below appear to be well reasoned. The arguments raised by the

learned counsel for the petitioner have already been dealt with by the Courts below in detail and no further expression of opinion is required to be given thereupon.

Hence, the instant Revision Petition being devoid of merits, is ordered to be dismissed.

26th AUGUST, 2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(SANDEEP MOUDGIL)
JUDGE