

CRR-1268-2022

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

**CRR-1268-2022 (O & M)**  
**Date of decision: 04.08.2022**

|                  |                 |
|------------------|-----------------|
| Liyakat Ali      | .... Petitioner |
| V/s              |                 |
| State of Haryana | ...Respondent   |

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Amit Gupta, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. R.S. Budhwar, Advocate,  
 with Ms. Vaishali Kamboj, Advocate,  
 for the complainant-Asgar Ali.

\*\*\*\*\*

**JASJIT SINGH BEDI, J. (Oral)**

The present revision petition has been filed against the order dated 06.06.2022 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 12.06.2019 passed by Judicial Magistrate Ist Class, Sub Division Bilaspur, convicting the petitioner under Sections 406 and 420 IPC, has been dismissed

2. The brief facts of the case are that the complainant-Asgar Ali wanted to open a College and for that purpose he needed 9 to 10 acres of land. In relation to the same, he met the accused-petitioner, who told him that he was having 74 kanal 4 marlas land at village Malikpur Khadar and the same was mortgaged with the bank and except the said mortgage, it was free from all other kinds of encumbrances. No dispute relating to this

Court of law. On this assurance of the accused-petitioner, the complainant (Asgar Ali) agreed to buy the said land @ Rs.33 lacs per acre from the accused and executed an agreement to sell on 28.04.2010 in this regard. In pursuance of said agreement to sell, he paid Rs.12 lacs as earnest money to the accused-petitioner vide receipt dated 28.04.2010. It was agreed between both the parties that by 15.06.2010, accused persons would get the aforesaid property redeemed and they would get the revenue record pertaining to it corrected and after taking the NOC from bank, they would get the sale deed registered and executed in his favour on payment of Rs.64,50,000/- upto 07.05.2010. However, before 07.05.2010, the complainant-Asgar Ali came to know that the accused-Liyakat Ali had already entered into another agreement to sell off some part of the property for which he (Asgar Ali) had entered into agreement to sell in question. The said agreement with the other person was executed with one Mutarja Ali, resident of Malikpur Khadar and he had taken earnest money from him. Mutarja Ali filed a civil suit for specific performance against him (Liyakat Ali) which was subjudice in the Court of Sh. Rajiv Goyal, Sub Judge, Jagadhari and the Court had passed restraining orders with respect to the alienation of the said property in that case against accused-Liyakat Ali. On this, the complainant contacted the accused persons and asked them about the pendency of the aforesaid case and they stated that before 15.06.2010, they would compromise the said matter with Mutarja Ali and would get the aforesaid suit withdrawn and after that they would get the sale deed executed and registered in his favour as per the terms and condition of agreement. Believing the said version of the accused persons, on 15.06.2010, the complainant alongwith balance sale consideration and necessary registration expenses went to Tehsil Chhachhrauli. However, he found that due to a holiday in lieu of Maharana

Jayanti, it was closed and therefore he got his attendance marked through an affidavit before the Notary Public and again on the next date i.e. 16.06.2010, he went to the office of the Sub Registrar, Chhachhrauli along with the balance sale consideration and other necessary registration charges, etc. but the accused persons did not turn up. On this, he again got his presence marked. It has been further stated that accused persons were real brothers and they were aware about the aforesaid restraining order as well as pendency of the civil suit as they were cultivating the said property jointly. However despite that they had cheated him (the complainant herein) by concealing the factum of aforesaid civil suit and stay orders. It had been further stated that if the accused persons would have told him about the same, he would never have entered into the said agreement to sell with them. However, they had concealed the said fact in furtherance of a criminal conspiracy hatched by them with each other and they had grabbed the earnest money of Rs.12 lacs which he had paid to them and they refused to return the same on his (complainant's) demand. Therefore, necessary action be taken against the accused persons. With these allegations the FIR was lodged.

3. Based on the afore-mentioned FIR, 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 Sections 406 and 420 IPC vide judgment of conviction and order of sentence dated 10.06.2019 and 12.06.2019 as under:-

| Offence under Sections | Sentence RI | Fine      | RI in default of payment of fine |
|------------------------|-------------|-----------|----------------------------------|
| 406 IPC                | Two Years   | --        | --                               |
| 420 IPC                | Two Years   | Rs.1000/- | One Month                        |

4. Pursuant thereto, the petitioner preferred an appeal before the Court of the learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, which came to be dismissed on 06.06.2022.

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. During the course of the pendency of the present petition, a compromise dated 01.08.2022 was effected between the Gufran, the younger brother of the petitioner-Liyakat Ali as the petitioner-Liyakat Ali is confined in District Jail, Yamuna Nagar with the complainant-Asgar Ali.

7. In terms of Section 320(2) Cr.P.C., the offence under Sections 406 and 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 Mark Á'. He has appeared in Court today and has endorsed the said settlement as well.

8. 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**

***'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 06.06.2022 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhari and the judgment of conviction and the order of sentence dated 10.06.2019 and 12.06.2019 passed by the Judicial Magistrate Ist Class, Sub Division Bilaspur, are hereby set aside and the petitioner-Liyakat Ali is acquitted of the charges framed against him.

**( JASJIT SINGH BEDI)**  
**JUDGE**

**August 04, 2022**  
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No