

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

**Reserved on 23rd August, 2022
Pronounced on 29th August, 2022**

CRR No.4544 of 2016

Sudesh Rani

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Chanchal K. Singla, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

Complainant is in revision against the order of acquittal passed by Judicial Magistrate 1st Class, Kapurthala which has been affirmed by Additional Sessions Judge, Kapurthala in appeal.

2. As per the allegations levelled in the FIR, it was alleged that the accused are in the business of travel agents. They approached the complainant and offered to send her abroad. Her husband was already settled in Switzerland thus, the petitioner also had a dream of settling with him. The deal was struck for Rs.8,00,000/- out of which amount of Rs.50,000/- was paid by the petitioner on 22nd of August, 2003. Further sum of Rs.1,50,000/- and Rs.70,000/- was alleged to have been paid by the complainant. After accused failed to send the complainant abroad, the instant FIR was registered at the behest of the complainant. The accused were put to trial. Trial Court vide judgment dated 15th of September, 2012

ordered acquittal of the accused holding that -

“No evidence has come on record, if the accused are doing any work as travel agents. In order to prove the offence under Section 420 of Indian Penal Code, there must be deception committed by the accused to the complainant. Had there been any intention to deceive, accused Paramjit Kaur would not have executed any pronote and receipt in favour of complainant regarding the advancement of said loan. From the perusal of record, it is clear that accused Paramjit Kaur had taken the loan in terms of money from the complainant. Therefore, be inferred that there was any inducement on behalf of the accused to complainant to send her abroad. There was only simple of money transaction complainant and accused.”

3. The order of acquittal was challenged in appeal by the petitioner. The same was dismissed by the Appellate Court finding that -

“..I have come to the conclusion that there is no distorted conclusion “substantial and compelling reasons” for interference in the judgment of acquittal. Judgment under appeal is fully based on the true and correct appreciation of the evidence of the prosecution along with other material. The finding and observation recorded by the Ld. Lower Court that prosecution failed to prove the charges levelled against the accused beyond every kind of shadow of doubt is correct as per settled principles of law. So, judgment under appeal deserves to be up-held...”

4. Ld. Counsel for the petitioner has argued that the findings

recorded by the Courts below are perverse and urges this Court to re-appreciate the evidence.

5. I have heard Ld. Counsel for the petitioner and have carefully gone through the record of the case.

6. The scope of revision against acquittal stands settled by Apex Court in the case of **Bindeshwari Prasad Singh @ B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another, 2002 AIR (SC) 2907**

wherein it has been held that -

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a re-trial. It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of

gross miscarriage of justice. The High Court will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party. (See AIR 1951 Supreme Court 196 : D. Stephens v. Nosibolla; AIR 1962 Supreme Court 1788 : K.C. Reddy v. State of Andhra Pradesh; (1973) 2 SCC 583 : Akalu Ahir and others v. Ramdeo Ram; AIR 1975 Supreme Court 1854 : Patakalapati Narayana Gajapathi Raju and others v. Bonapalli Peda Appadu and another and AIR 1968 Supreme Court 707 : Mahendra Pratap Singh v. Sarju Singh).”

7. Thus, taking into consideration the facts and circumstance of the case and in view of the ratio of law laid down by the Apex Court in **Bindeshwari Prasad Singh's case** (supra), no case for exercising revisional jurisdiction is made out.

8. Consequently, the present revision petition is dismissed.

August 29, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No