

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

237

**CRR-2441-2019 (O&M)
Date of decision: 07.04.2022**

Bimla Devi

...Petitioner

Versus

Kailash and another

...Respondents

237-A

**CRR-2450-2019 (O&M)
Date of decision: 07.04.2022**

Bimla Devi

...Petitioner

Versus

Ram Singh and another

...Respondents

237-B

**CRR-2451.2019 (O&M)
Date of decision: 07.04.2022**

Bimla Devi

...Petitioner

Versus

Durga Parshad and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. J.P. Sharma, Advocate for the petitioner(s).

Mr. Kuldeep Tiwari, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

**CRM-29524-2019 in CRR-2441-2019 and
CRM-29549-2019 in CRR-2450-2019**

These are the applications seeking condonation of delay of 07 days in filing the revision petitions.

Learned counsel for the applicant-petitioner submits that the delay in filing the revision petitions is neither intentional nor willful, as the

other revision petition (CRR-2451-2019) was filed by the application-petitioner within the period of limitation.

Notice of the applications to the respondent State only.

On the asking of this Court, Mr. Kuldeep Tiwari, Addl. A. G. Haryana, accepts notice on behalf of the respondent-State, and submits that he has no objection, if the present applications are allowed.

For the reasons given in the applications, the same are allowed and delay of 7 days in filing the revision petitions is condoned.

Main Revisions:

This order shall dispose of the above noted three petitions as common questions of law and facts are involved therein.

Challenge in the present petitions is to the judgment dated 01.06.2019 passed by the Additional Sessions Judge, Narnaul, whereby the appeals filed by accused, namely, Durga Prasad, Gindori Devi, Ram Singh and Kailash, were allowed while setting the judgment of conviction and order of sentence passed by the trial Court, and they were acquitted of the charges framed against them under Sections 419, 420, 467, 468, 471 and 120-B IPC.

The facts of the case, in brief, as noted by the learned Appellate Court, are as under:

“3. *Brief facts of the case are that in order to usurp the land of complainant Bimla, her real brother i.e. accused Durga Prasad got forged registered General Power of Attorney bearing Deed No.18 dated 14.06.2002 by impersonating their sister i.e. accused Gindori Devi in place of Bimla Devi (complainant) in the presence of accused Ram Singh and Kailash Chand. Subsequently, while using the GPA, accused Durga Prasad sold land of*

complainant by way of executing two registered Sale Deeds one bearing No.950 dated 05.08.2002 and another bearing No.120 dated 10.05.2010. When complainant enquired from accused Gindori Devi on 22.09.2010, the latter disclosed that her signatures were obtained under the pretext that she was applying for loan. On the basis of order passed by the then learned JMIC, Narnaul, FIR was registered u/s 156(3) Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.').”

On finding a prima facie case, charges under Sections 419, 420, 467, 468, 471 and 120-B IPC were framed by the learned Magistrate in terms of order dated 11.06.2013, to which the accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as seven witnesses.

In the statements recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded innocence.

The trial Court, after considering the evidence available on record, vide judgment of conviction dated 25.07.2016 and order of sentence dated 28.07.2016, held the accused persons guilty under Sections 419, 420, 467, 468 and 471 IPC and sentenced them to undergo imprisonment for two years and to pay a fine of Rs.1000/- under each of the aforesaid Sections, besides default stipulation.

Being dissatisfied with the aforesaid judgment of conviction and order of sentence passed by the trial Court, the accused persons had preferred three appeals before the learned Appellate Court. Vide impugned judgment dated 01.06.2019, the learned Additional Sessions Judge, Narnaul, set aside

the judgment and order passed by the trial Court and acquitted the accused of the charges framed against them. Hence, the present revisions.

Learned counsel for the petitioner submits that the findings recorded by the trial Court were based on evidence and material on record and the learned Appellate Court has brushed aside the same merely on the ground that the original GPA had not seen the light of the day. It is further submitted that when on the basis of facts and evidence on record, the execution of the GPA was proved and accordingly, the trial Court had recorded the finding of conviction and sentenced the accused, there was no occasion for the learned Appellate Court to take a view different than that. It is, thus, submitted that the Appellate Court fell in error of law while setting aside the well reasoned judgment and order passed by the trial Court.

Having heard learned counsel for the petitioners, I do not find any merit in the present petitions.

The case of the prosecution is that the GPA vide which the complainant had allegedly appointed accused-Durga Prasad as her General Power of Attorney, was a forged document, which was got prepared by him by impersonating co-accused Gindori Devi (who is real sister of complainant-Bimla and accused Durga Prasad) as Bimla, whereas accused Ram Singh and Kailash Chand had put their signatures as attesting witnesses. Subsequently, while using the GPA, accused Durga Prasad had sold the land of the complainant by way of executing two registered sale deeds bearing No.950 dated 05.08.2020 and No.120 dated 10.05.2010.

While passing the impugned judgment, the learned Appellate Court has found that neither the original GPA nor original report prepared by

Finger Print Bureau, Haryana, Madhuban, had seen the light of the day and that the thumb impressions of complainant and accused Gindori Devi were not obtained. It was further found that no efforts had been made to prove the duplicate of the report prepared by the Finger Print Bureau, Haryana, Madhuban. It is settled law that in cases relating to the offences of forgery, the original document(s) must be proved and in the absence of the primary evidence, the secondary evidence is to be led, but in the absence of following the said course of action, the finding of guilt cannot be returned on the basis of duplicate of the original document. Thus, this Court does not find any illegality or material irregularity in the finding of the Appellate Court that there was nothing on record to show that any document was forged by the accused and that there was no iota of evidence that any alleged forged document was used by them in order to cheat the complainant.

It is also settled law that a High Court while exercising revisional jurisdiction, cannot sit in appeal, but the scope is very limited. The revisional jurisdiction should be exercised in exceptional cases only when there is some glaring defect in the procedure or a manifest error of law resulting into flagrant miscarriage of justice.

In Munna Devi Vs. State of Rajasthan and another, 2001(9) SCC 631, the Hon'ble Supreme Court has held as under:

"The revision power under the Code of Criminal procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of

the criminal proceedings or the framing of charge or the facts as stated in the First Information Report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

Thus, I find that the findings given by the learned Appellate Court do not suffer from any material illegality or irregularity warranting interference of this Court in its revisional jurisdiction.

Dismissed.

(HARNARESH SINGH GILL)
JUDGE

07.04.2022
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No