

CRR-943-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-943-2022 (O & M)
Date of Decision:10.04.2023

Satyanarayan @ Satya Narain Bagria @ Satya Narayan @ Lal

... Petitioner

Versus

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jainainder Saini, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. R.A. Sheoran, Advocate,
for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the judgment dated 24.09.2021 passed by the Additional Sessions Judge, Hissar vide which two revision petitions (one filed by the State and one filed by the complainant) against the common order dated 29.02.2020 passed by the Judicial Magistrate Ist Class, Hissar in case FIR No.38 dated 02.03.2019 under Sections 406/420 IPC vide which the present petitioner was discharged of the offences punishable under Sections 420 and 406 IPC was set aside.

2. The brief facts of the case are that an FIR No.38 dated 02.03.2019 under Section 406 and 420 IPC (added later on), Police Station

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Adampur, District Hissar was got registered by the complainant/respondent No.2 with the allegations that the petitioner had taken a sum of Rs.4 lacs for obtaining a Government job for the son of the respondent No.2/complainant Balwant @ Doctor. As per the FIR, the conversation pertaining to the transaction had been recorded in a mobile phone and the police and investigating agency was informed about the said recording. The copy of the FIR No.38 dated 02.03.2019 is attached as Annexure P-1 to the present petition.

3. During the course of investigation, the petitioner was arrested and the recovery of some money was effected from him. Consequent there to, a report under Section 173(2) Cr.P.C. came to be presented against the petitioner.

4. Thereafter, vide order dated 29.02.2019 (Annexure P-2) the petitioner came to be discharged on the ground that there was no recording of any voice conversation or CD attached with the challan to corroborate the allegations levelled by the complainant/prosecution and the bald statement of the complainant was not enough to charge the accused for the offences under Sections 420/406 IPC.

5. Against the aforementioned order of discharge, the complainant-Balwant @ Doctor filed a Criminal Revision No.14 of 2020 whereas the State of Haryana filed a Criminal Revision No.09 of 2020. Vide order dated 24.09.2021, the aforesaid revisions petitions were accepted and the Trial Court was directed to proceed further in the light of the observations made in

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the said judgment. A copy of the judgment dated 24.9.2021 passed by the Additional Sessions Judge, Hisar is attached to the present petition.

The judgment dated 24.09.2021 passed by the Additional Sessions Judge, Hisar, is under challenge in the present petition.

6. The learned counsel for the petitioner-accused contends that other than the bald statement of the complainant, there is absolutely no evidence on the file to substantiate the allegations levelled by the complainant. The impugned order had been wrongly passed because four CDs referred to in the FIR had not been made a part of the report under Section 173(2) Cr.P.C. and in the absence of the said electronic evidence being made a part of the record, the same could not be looked into for the purpose of framing of charge. Therefore, the petitioner had rightly be discharged.

7. The learned counsel for the State, on the other hand, contends that no fault could be found with the impugned judgment dated 24.09.2021. During the course of an enquiry, the accused-petitioner Satyanarayan @ Satya Narain Bagria @ Satya Narayan @ Lala had admitted the fact that he had received money from the complainant and had promised to return the same in instalments of Rs.20,000/- per month. This had not been agreed to by the complainant. A recovery of Rs.18,000/- had been effected from the petitioner/accused. Therefore, the order of discharge dated 29.02.2020 (Annexure P-2) passed by the JMJC, Hisar was illegal and unlawful and the Revisional Court had rightly interfered with the same.

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8. The learned counsel for the complainant/respondent No.2 has reiterated the arguments of the learned counsel for the State contending that since the charge could be framed on the basis of suspicion alone, there was no illegality in the impugned judgment and therefore, the present petition was liable to be dismissed.

9. I have heard the learned counsel for the parties.

10. Admittedly, other than the uncorroborated statement of the complainant and a subsequent recovery of Rs.18,000/- from the petitioner on the basis of his disclosure statement, there is no other corroborative evidence to substantiate the allegations levelled by the complainant. However, a perusal of the FIR would clearly reveal that there was electronic evidence in the form of phone recordings contained in the CDs which had been provided to the investigating agency by the complainant. For the reasons best known to the investigating agency, the same have not been made a part of the record.

11. Be that as it may, as has been observed above, since the only existing evidence against the petitioner as per the report under Section 173(2) Cr.P.C. is the bald statement of the complainant and the recovery of Rs.18,000/- from the petitioner, the said evidence would be insufficient to frame charges.

12. Therefore, I find considerable merit in the present petition and the judgment dated 24.09.2021 passed by the Additional Sessions Judge, Hisar is hereby quashed.

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13. However, the investigating agency is at liberty to further investigate the matter and bring on record the four CDs referred to in the FIR on the record of the case by way of a report under Section 173(8) Cr.P.C. and the Trial Court shall, thereafter proceed in accordance with the law.

14. The present petition is disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

April 10, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No