

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

CRM-M-38758-2018 (O&M)

Date of decision: 07.08.2023

Harjot Singh Grewal

...Petitioner

Versus

State of UT Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. RS Randhawa, Advocate for the petitioner.

Mr. Deepinder S. Brar, Addl. PP, UT Chandigarh.

Mr. Baltej S. Sidhu, Sr. Advocate with
Ms. Gagandeep Kaur, Advocate for respondent No.2.

AMAN CHAUDHARY, J.

1. The present petition has been filed for quashing of order dated 01.03.2017 passed by Ld. Judicial Magistrate Ist Class, Chandigarh and order dated 21.07.2018 passed by Ld. Additional Sessions Judge, Chandigarh.
2. Learned counsel for the petitioner would submit that the Courts below have wrongly declined his application under Section 156(3) CrPC, as the petitioner had never authorised the accused-respondent No.2 to sell his property and the signatures of the petitioner on the agreement to sell were found to be forged. Thus, he is a victim of the said forgery.
3. On the other hand, learned Senior counsel for respondent no.2, would submit that there is no loss caused to the petitioner inasmuch as the property owned by him had not been put to sale, as such, he had not filed any complaint to the police. However, the FIR in question was lodged by one Gaurav Kansal

against accused-Paramjeet Singh Kalsy, who had taken an amount from him with regard to the sale of the property in question, purportedly based on an authority letter of the petitioner and Karan Johar and Arun Kumar Khullar, both of whom were witness to the said authority letter. The petitioner is rather a prosecution witness in the aforesaid case. It is now that he has filed the application under Section 156(3) which has been rightly dismissed by the trial. He does not fall under the definition of victim, as has been observed by the learned Sessions Court.

4. Heard the counsel and perused the file.

5. A reference deems necessary to be made to the order of the trial Court, whereby the application under Section 156(3) CrPC filed by the petitioner was dismissed, which reads thus:

Arguments heard. Since, the supplementary challan dated 16.08.2015 was presented by SHO police State, Section 19, Chandigarh. Court has already been taken the cognizance of the present case. Application under 156(3) is filed at the pre cognizance stage. As supplementary challan has already been presented by the police and it is forwarded by Ld. APP, if there was any objection regarding the challan submitted in the Court then Ld. APP should have raised this objection at that time. Now as challan has been presented before the Court, evidence has been started and after taking cognizance by the Court, application under Section 156 (3) Cr.P.C.is not maintainable at this stage. Therefore, in view of facts mentioned above foregoing application in hand stands dismissed.

6. The Additional Sessions Judge while dismissing the revision petition preferred by the petitioner recorded the following findings:

“10. The contentions of learned counsel for the petitioner that Investigating Officer be directed to get more signatures of Paramjit Singh Kalsi and others for the purpose of comparison of the same with the signatures on receipts dated 13.2.2013 and 19.2.013, cannot be accepted. Perusal of the file reveals that CFSL report dated 28.10.2015 was received during the investigation. In the said report categorical opinion has been given by the concerned Assistant Director & Scientist Dr. Ravindra Sharma, wherein, he stated that Q/1/1, Q2/1 and S7

to S15 reveals characteristics similarities in writing habits indicating thereby their common authorship, meaning thereby that the authorization letters do not bear the signatures and writing of petitioner Harjot Singh Grewal. Similarly, in report of CFSL Dt 31.12.13, certain finding has come that signatures of Harjot Singh on Authorization Letters Ex PW7/1 and PW7/2 do not tally with his standard and admitted signatures/handwriting. Since, the definite opinion of CFSL has already arrived on the file regarding the signatures and handwriting of authorization letter, PW7/1 and PW7/2, it will not be proper for this court to give any finding, whether more signatures of Paramjit Singh Kalsi and others are required for proving the genuineness of the receipts allegedly issued by Paramjit Singh Kalsi in favour of Guarav Kansal. The learned trial court will be at liberty to take into account the reports of CFSL and the evidence adduced by the prosecution to prove its case. Besides this is also observed that prosecution has already examined as many as 7 witnesses including the complainant Gaurav Kansal, Avinash Malik and Parshotam Ram. Petitioner is also one of the prosecution witnesses in the present case. He has stated in unequivocal terms that he had gone to USA, when authorization letter and receipts were executed. The said matter can also be decided by the learned trial court at the time of final decision and no findings is required at this stage by this court which may cause prejudice to accused party.

11. Before parting with this judgment it is observed that term 'victim' has been defined under Section 2 (wa) of Cr.P.C. as under ;

“2 (wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “Victim” includes his or her guardian or legal heir.”

However, in the present case accused Paramjit Singh Kalsi got the amount of Rs. 5.00 lacs from Gaurav Kansal on the basis of alleged authorization letters executed by Harjot Singh Grewal in his favour pertaining to the property of petitioner. Neither the criminal law set into motion by the petitioner nor he suffered any loss in the present case due to the act of the accused Paramjit Singh Kalsi. Thus the petitioner cannot be declared as victim under Section 2 (wa) of Cr.P.C. The learned trial Magistrate has rightly appreciated the facts of the case in hand so, the application has rightly been dismissed.”

7. It is apparent that in the FIR lodged under Sections 420, 465, 467, 468, 471, 44, 120-B IPC regarding the incident, after investigation, final report under Section 173 Cr.P.C. was presented on 16.08.2015. The trial Court while

dismissing the application of the petitioner has categorically observed that at the above juncture, the prosecution should have raised the said objection, as is now being sought to in the application filed under Section 156(3) CrPC by the petitioner. Admittedly, 7 prosecution witnesses have already been examined. As a matter of fact, no complaint had been filed by the petitioner. The Additional Sessions Judge, has rightly observed that the trial Court will be at liberty to take into account the reports of CFSL and the evidence adduced by the prosecution to prove its case. Such be the situation, no fault can be found in the orders of the Courts below.

8. The petitioner having already availed of its remedy by filing a criminal revision petition, though unsuccessfully before the Additional Sessions Judge, Chandigarh, this petition would amount to a second revision petition under the guise of petition under Section 482 Cr.P.C., as per Section 397(3) Cr.P.C., is the view of this Court, which finds support from the judgment in the case of **Krishnan vs. Krishnaveni and another**, 1997(4) SCC 241, by Hon'ble The Supreme Court, wherein it was held that in appropriate cases in order to meet the ends of justice or to prevent abuse of the process, the High Court is preserved with inherent power, which should be exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings.

9. Hon'ble The Supreme Court had in the case of **Shakuntala Devi and others vs. Chamru Mahto and another**, 2009(2) SCC (Cri) 8, held that, "It is well settled that the object of the introduction of sub-section (3) in Section 397 was to prevent a second revision so as to avoid frivolous litigation, but, at the same time, the doors to the High Court to a litigant who had lost before the

Sessions Judge were not completely closed and in special cases the bar under Section 397(3) could be lifted. In other words, the power of the High Court to entertain a petition under Section 482, was not subject to the prohibition under sub-section (3) of Section 397 of the Code, and was capable of being invoked in appropriate cases. Mr Sanyal's contention that there was a complete bar under Section 397(3) of the Code debarring the High Court from entertaining an application under Section 482 thereof does not, therefore, commend itself to us.”

10. There is no special circumstance in this case, which could persuade this Court to grant relief in the present case, in exercise of the inherent power under Section 482 Cr.P.C and no infirmity or perversity in the judgments of the Courts below has been found, warranting any intervention. As such, the present petition sans merit and is hereby dismissed.

07.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No