

254/**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-31803-2019 in/and
CRR-2692-2019
Date of decision:09.08.2023**

Sadrik Sohan

....Applicant/Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. M.S.Virdi, Advocate for applicant/petitioner.

ARUN MONGA, J. (ORAL)**CRM-31803-2019**

By this application, the applicant/petitioner seeks condonation of delay of 542 days in filing the accompanying revision petition.

Learned counsel submits that the applicant had been visiting to the office of District Attorney and the Advocate General Office of Punjab to know as to whether any revision against judgment of acquittal delivered by the Appellate Court was preferred or not? They kept delaying the matter on one pretext or the other. When the applicant/petitioner came to know that no revision is going to be filed by the State, the applicant/petitioner then filed the accompanying revision petition. He submits that the delay was not intentional.

Heard.

The explanation furnished by the applicant does not inspire any confidence. It does not make out a case of sufficient cause to condone inordinate delay of 542 days.

Even on merits the applicant/petitioner does not have a case at all, which are being discussed herein below.

CRR-2692-2019

Petition herein is to challenge the judgment dated 22.09.2014 rendered by the learned Sub Divisional Judicial Magistrate, Batala, whereby respondents no.2 to 11 herein, have been acquitted as well as an order dated 19.09.2017 passed by the learned Additional Sessions Judge, Gurdaspur, vide which appeal filed by the present petitioner has been dismissed.

2. Succinct facts of the case, as noted by learned trial Court in the impugned judgment dated 22.09.2014, are as under:-

"2. In nutshell. the prosecution story is that on 06.02.1999, one request being number 110-Diary. R.S.R. Dec. B2 98 dated 05.02 1999 was received for registration of F.I.R. against the accused facing trial in the present case. It has been written in the said letter that Sadrick Sohan Lal is the Secretary of Amritsar Dieoceson Trust Association (hereinafter mentioned as ADTA) of Punjab. Himachal Pradesh, Jammu & Kashmir since 25.07.1980. He is responsible to manage and look after the property of the trust and to take all the appropriate steps, which are beneficial for the Trust. All the accused hatched a criminal conspiracy to sell the property of the Trust with an intention to cause wrongful loss to the Trust and wrongful gain to themselves. They passed a resolution bearing number Amritsar-DOA-ADTA-5-98 dated 5.1.1998 allegedly authorising Sanjiv Kumar to sell the property to the Trust measuring 7 kanals bearing Basat 211 and having boundaries on the Eastern side Road, on the Western side Mandir and a passage, on the Southern side Anarkal. Drain Parking and on the Northern side more property of the Trust. On the basis of resolution dated 06.1.1998. Sanjiv Kumar sold 7 Kanals of Trust's land to Lakhwinder Singh. Ashok Kumar, Balwant Rai, Jatinder Kumar and Jaswant Singh for consideration of Rs. 2,00,000/- vide registered sale deed dated 04.09.1998. Accused Sanjiv Kumar and other three accused do not have any connection with the Management of the property of the Trust and/ they do not have valid Power of Attorney on behalf of Chairman and Secretary of ADTA. The Court of Shri S.S. Gupta, learned Additional Senior Sub Judge. Amritsar vide order dated 16.08 1988 had adjudicated that Sadrick Sohan Lal is the Secretary of ADTA and away all the accused in a fraudulent and deceitful manner distributed amongst themselves the sale proceeds as the market value of the property is more than Rs. 2,00,000/-. They also forged the signatures of Major P.P. Rao, who is self styled Bishop of ADTA, although he was dead on the day of this resolution. A stay order had also been issued by Hon'ble Punjab & Haryana High Court in R.S.A. No. 2567 of 1992 vide order dated 23.11.1992 and accused were in knowledge of the said order, but they hatched a conspiracy and impersonated themselves as the office bearers and Trustees of ADTA. and further executed a sale deed dated 04.09.1998 by alienating the property of ADTA causing wrongful loss to the Trust. So, FIR shall be registered against them. After receiving this written request, a preliminary enquiry was conducted and FIR was registered against the accused. Thereafter, other formalities of investigation were completed and challan was presented in the court on 17.07.2000."

3. Vide order dated 22.09.20214, learned trial Court acquitted all the respondents no.2 to 11/accused by giving benefit of doubt, *inter alia* premised on the following reasoning:

" 19. I have heard both the sides. The first allegation against the accused is that they forged the resolution allegedly passed in favour of Sanjiv Kumar under the signature of Major PP. Rao, although, he was dead on the date of passing the resolution dated 05.01.1998. Prosecution has examined PW7 Ayub Danial who stated that the resolution Ex.PW7/A has not been passed by their Trust, but he is allegedly the cashier of ADTA and not the Secretary or General Attorney to produce this record in the Court. He has no authority to depose in the Court on behalf of ADTA nor he produced any authority letter. By simply giving a statement in the Court that the resolution Ex.PW7/A has not been passed by their Trust is not sufficient to believe his contention. He has to prove the minutes of meetings of the Trust to prove the passing of resolution of the Trust during the relevant period, so his testimony is not sufficient to prove that the said resolution has not been passed by the ADTA Secondly, PW4 Sadrack Sohan Lal produced the copy of the forged resolution as EX.PW4/AH, but this is a photo copy and the original of this document is not known either to the Investigating Officer or to the alleged members of the Trust. So, it cannot be presumed that it has been forged by the accused, as no handwriting or fingerprint expert has been examined.

20. Secondly, the alleged sale deed, which has been produced by PW5 Subash Chander is Ex.PW5/A, but the record of sale deed produced by Sadrack Sohan Lal is Ex.PW5/AJ i.e., as per story of complaint, the sale deed Ex.PW4/J has been executed by Sanjiv Kumar with a *traudulem* intention for sale consideration of Rs 2.00.000 Careful perusal of this document shows that the 7 Kanal property, which has been sold vide this sale deed has sides Northern side: Bhandari Mohalla Road, Southern side: School of the Trust. Western side: Kacha Kot Ghumiara Basti, and Eastern side: Kacha Kot Obri Gate Batala, and East Road, West: Road, South: Anarkali parking and North: Property of trust. As per complaint given by Sadrack Sohan Lal, the description of the property is entirely different from the property mentioned in the sale deed Ex.PW4/3, as the property has been described as East: Road. West: Mandir and passage, South: Anarkali parking. North: Property of trust So the allegations against the accused are not proved. Regarding the sale deed Ex.PW5/AJ it has been produced in the Court by the officials from the office of Sub Registrar and he never stated that it is a forged document, rather, the production of this sale deed goes in favour of the accused. No expert witness has been examined by the prosecution to prove the signatures of Major PP Rao nor any effort has been made to do so. Prosecution has miserably failed to prove both the points of determination. So, giving the benefit of doubt. accused namely, Kamla. Tabir-Ul-Haq, Sanjiv Kumar alias Samuel Masih, Stiphen Bhatti, Mourice, Lakhwinder Sing, Ashok Kumar. Jatinder Kumar, Balwant Rai and Jaswant Singh are hereby acquitted from the charge framed against them. Their bail bonds surety bonds taken during the trial stand discharged. Case property be disposed of after awaiting the result of appeal or revision, if any. The file be consigned to the record room, Batala."

4. The appeal preferred by petitioner herein before the learned Additional Sessions Judge, Gurdaspur, vide Criminal Appeal No.204 of 04.12.2014, was also dismissed and affirming the order passed by learned trial Court, by giving following reasoning:-

"17. Keeping apart above, complainant Sadric Sohan Lal has admitted that in addition to their association there was other management who looks after churches at Punjab, Haryana and Himachal Pradesh. These Associations alienate, lease or let out the properties without any kind of interference for purpose of paying salary to employees of Church and Associations.

18. Contention of learned counsel for defence that accused/respondents have not led any evidence to prove that sale transaction in their favour of genuine is of no consequence because it was duty of prosecution to establish that accused/respondents had conspired together on 04.09.1991 for execution of sale deed in question on basis of forged resolution. By his mere saying that the said resolution is forged and fabricated it cannot be treated as charges against accused/respondents stands proved, especially when alleged forged and fabricated attorney has not come on record.

19. Overall analysis of prosecution evidence shows that impugned judgment cannot be treated as perverse, against facts and law and unsustainable. I am of the view that judgment of acquittal has been passed by lower court after proper appreciation of facts and no legal error has been committed. Resultantly, I found myself unable to hold in consensus with learned counsel for appellant and appeal is dismissed."

5. Learned counsel for the petitioner submits that both the Courts below have failed to appreciate the fact and the documents placed on record by the prosecution which clearly proves the guilt of the accused beyond reasonable doubt and the judgements delivered by both the Courts below are devoid of any merits and based on conjectures and surmises and thus, deserve to be reversed and respondents no.2 to 11 deserve punishment for the offences, for which they have been charged.

6. I have heard learned counsel for the petitioner and perused the case file.

7. I am unable to persuade myself with the arguments canvassed by learned counsel for the petitioner. Perusal of the impugned judgements/orders shows that same are based on cogent reasoning after appreciating the evidence on record in right perspective.

8. Findings recorded by learned Courts below do not suffer from any infirmity and perversity much less illegality. State, therefore, rightly chose not to assail the

appellate order and gave the trial Court judgment a finality after dismissal of the appeal.

Thus, no grounds for interference are made out.

9. Instant petition is dismissed.
10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

09.08.2023
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No