

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2675-2015(O&M)

Date of Decision:-29.09.2023

Gulbarg Singh.

.....Petitioner.

Vs.

State of Punjab & Anr.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amaninder Preet, Advocate Amicus Curiae for the
Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner/complainant against the judgment dated 27.10.2014 passed by Additional Sessions Judge, Kapurthala vide which the judgment of conviction dated 20.05.2013 passed by Sub Divisional Judicial Magistrate, Phagwara has been set aside and the accused has been acquitted of the charges framed against him.

2. The brief facts of the case are that FIR No.72 dated 8.4.2007 under Sections 406, 420, IPC and Section 24 of Immigration Act, 1983 came to be registered at the instance of complainant Gulbarg Singh son of Surinder Singh. As per the allegations, the respondent no.2-Amrik Chand and one Rachhpal Singh, both of whom were travel agents had taken a sum of Rs.6 lacs to send the complainant abroad. However, a fake visa was provided to the complainant and on asking for the return of his original

passport along with cash the accused refused to do so.

3. Pursuant to the conclusion of the investigation the report under Section 173(2) Cr.PC stood submitted and the charges came to be framed.

4. During the course of the trial the prosecution examined PW-1 Gulbarg Singh, PW-2 Bhupinder Singh, PW-3 Amritpal Singh, PW-4 Jaswinder Singh, Assistant Manager, IDBI Bank, Phagwara, PW-5 Ajmer Singh, PW-6 Davinder Singh, PW-7 SI Sarabjit Singh.

5. Based on the evidence led the respondent no.2 came to be convicted and sentenced vide judgment of conviction and order of sentence dated 20.05.2013 as under:-

Offence under Sections	Imprisonment
420 IPC	Convict is sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5000/-. In default of payment of fine, each convict shall undergo rigorous imprisonment for a period of one month.

6. The accused/respondent no.2 preferred an appeal before the Court of Additional Sessions Judge, Kapurthala which allowed the same thereby acquitting him vide judgment dated 27.10.2014.

7. The present revision petition has been preferred by the complainant against the aforementioned judgment of acquittal.

8. The learned Amicus Curiae appearing for the petitioner contends that the impugned judgment has been passed on conjectures and surmises. The judgment of conviction has wrongly been set aside. The offence had been established beyond reasonable doubt. All the material witnesses had supported the prosecution case and the minor discrepancies in their depositions had been given undue importance. There was ample evidence on record to suggest that the Visa which had been provided to the complainant was a forged document. He, therefore, contends that the judgment of acquittal was liable to be set aside and the judgment of

conviction ought to be restored.

9. The Counsel for the State on the other hand contends that the judgment of acquittal passed by Additional Sessions Judge, Kapurthala was well reasoned. Every aspect of the case of the prosecution had been considered in its proper perspective. In fact there were material discrepancies in the statements of the prosecution witnesses. There were also material improvements in the statements of the prosecution witnesses in court from what they had stated during the course of investigation. He, therefore, contends that the instant revision petition was liable to be dismissed.

10. I have heard counsel for the parties at length.

11. A perusal of the FIR and the version got recorded by the complainant as PW-1 would show that there is a significant difference between the two. The amount initially stated to have been handed over and in whose presence has been changed from that recorded in the FIR to that recorded as PW-1. The Pronote and Receipt showing that the complainant had borrowed a sum of Rs.1,50,000/- from one Amritpal Singh PW-3 has been introduced in the deposition in the court. It appears to be a created document to show documentary evidence of the complainant generating funds to pay the accused. One Rachhpal Singh has been introduced as a person accompanying the accused at the time when the accused had gone to the house of the complainant. This fact is not mentioned in the FIR. While deposing in Court the complainant had stated that he had not obtained a duplicate passport. However, during his cross examination he admitted that he had travelled internationally. As per the prosecution case a forged and fabricated visa had been procured by the accused. However, there is no admissible evidence that the Visa was a fictitious one. One Makhan Singh

was purportedly an eye witness to the monetary transaction between the parties but has not been examined as a witness. This creates a significant doubt in the prosecution case. In fact, most of the prosecution witnesses are either related to the complainant or connected to him in some manner which creates a doubt in the case of the prosecution. There is significant delay in the registration of the FIR which also creates doubt in the prosecution case. Admittedly, Rs.4 lacs were paid on 16.04.2006 and Rs.2 lacs were paid on 24.03.2006. Thereafter the complainant had not been sent abroad to England nor had his money being returned. However, the complaint in question came to be instituted only on 31.03.2007 i.e. after about 11 months of the occurrence. No plausible explanation has been furnished for this delay.

12 . Keeping in view the aforementioned discussion, I find no reason to interfere with the well-reasoned judgment of the Lower Appellate Court and therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

September 29, 2023
Vinay

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