

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

**CRR No.266 of 2016 (O&M)
Date of Decision : 11.12.2023**

Montoo @ Ramj Rattan

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present : Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J.

CRM No.2210 of 2016

This is an application seeking condonation of delay of 35 days in filing the revision petition.

For the reasons mentioned in the application, this Court is satisfied that the petitioner has made out a sufficient cause to condone the delay. Consequently, delay of 35 days in filing the revision petition is hereby condoned.

Application stands disposed off.

CRR No.266 of 2016 (O&M)

The petitioner is in revision against the order passed by Additional Sessions Judge, Patiala dated 1st of September, 2015

whereby judgment of acquittal passed by Judicial Magistrate 1st Class, Patiala dated 16th of January, 2015 has been affirmed.

2. Law was set in motion on a complaint made by the petitioner/complainant Montu @ Ram Rattan. Brief facts of the case are that the petitioner as well as his mother namely Yog Mudra along with respondents No.2 and 3 were partners of M/s Mangal Engineering Works, Patiala. The said firm was having four bank accounts. After the death of father of the petitioner, his mother gave attorney to respondent No.2 to operate the said accounts. However, respondent No.2 started misappropriating the funds of firm. Lateron, with an intention to cheat and deceive petitioner as well as his mother, respondents No.2 and 3 fraudulently created a forged partnership deed and included respondents No.4 and 5 namely Geeta Rani and Ravina as partners of M/s Mangal Engineering Works. Thereafter, without getting consent of petitioner as well as his mother, new current accounts were opened in the name of said firm. Resultantly, FIR No.365 dated 19th of October, 2004, registered for offences punishable under Sections 406, 420, 477A, 120B of IPC, at Police Station Civil Lines, Patiala came into being against the respondents. The accused were put to trial.

3. Trial Court after analyzing the evidence on record found that the prosecution has failed to prove its case and accordingly,

acquitted the accused of the charges vide judgment dated 16th of January, 2015.

4. Aggrieved thereof, the petitioner filed appeal. The Appellate Court found that the acquittal recorded by the Trial Court is based upon the correct appreciation of the evidence and there is no material evidence on record which has been excluded while appraising the evidence on record and thereby affirmed the findings recorded by the Trial Court.

5. Counsel for the petitioner argues that the Courts below have wrongly appreciated the evidence on record which has resulted in the perverse findings.

6. It has been contended that both the Courts below have not taken into consideration the fact that respondents No.2 and 3 have forged a false partnership deed with *mala fide* intention to deceive the petitioner and his mother. No notice to the petitioner and his mother was ever issued by them before executing new partnership deed. Further the Courts have failed to appreciate the fact that the partnership deed dated 2nd of September, 2002 is forged one holding that the accused have not affixed, signed, made a false document. He contends that both the Courts below have totally ignored the oral as well as documentary evidence produced by the petitioner and have wrongly acquitted respondents No.2 to 5. It has been further

contended that this Court while exercising revisional jurisdiction should re-appreciate the evidence and reversed the findings recorded by the Courts below.

7. I have heard learned counsel for the petitioner and have carefully gone through the record of the case.

8. Law w.r.t. exercise of revisional jurisdiction of this Court already stands settled by the Apex Court in **Thankappan Nadar vs. Gopala Krishnan (2002) 9 SCC 393**, wherein it has been held as under :

“6. In a revision application filed by the de facto complainant against the acquittal order, the court's jurisdiction under Section 397 read with Section 401 of the Cr.P.C. is limited. The law on the subject is well settled. Instead of referring to various judgments, we would only refer to few decisions rendered by this Court. In **Akalu Ahir and Others v. Ramdeo Ram,(1973) 2 SCC 583** this Court has (in SCC pp.587-88, para 8) observed thus:

"This Court however, by way of illustration, indicated the following categories of cases which would justify the High Court in interfering with a finding of acquittal in revision:

- (i) Where the trial court has no jurisdiction to try the case, but has still acquitted the accused;
- (ii) Where the trial court has wrongly, shut out evidence which the prosecution wished to produce;
- (iii) Where the appellate court has wrongly held the evidence which was admitted by the trial court to be inadmissible;
- (iv) Where the material evidence has been overlooked only (either) by the trial court or by the appellate court; and
- (v) Where the acquittal is based on the compounding of the offence which is invalid under the law.

These categories were, however, merely illustrative and it was clarified that other cases of similar nature can also be properly held to be of exceptional nature where the High Court can justifiably interfere with the order of the acquittal."

The Court further observed: (SCC p.588, para 10)

"No doubt, the appraisal of evidence by the trial judge in the case in hand is not perfect or free from flaw and a court of appeal may well have felt justified in disagreeing with its conclusion, but from this it does not follow that on revision by a private complainant, the High Court is entitled to reappraise the evidence for itself as if it is acting as a court of appeal and then order a retrial. It is unfortunate that a serious offence inspired by rivalry and jealousy in the matter of election to the office of village Mukhia, should go unpunished. But that can scarcely be a valid ground for ignoring or for not strictly following the law as enunciated by this Court.

(Emphasis added)"

9. **In Raj Kumar vs. State of H.P., (2008) 11 SCC 76, Apex**

Court held that :

"7. In Duli Chand v. Delhi Administration, (AIR 1975 Supreme Court 1960), the scope of invoking jurisdiction of the High Court in criminal revision was examined and it was held in a case involving vehicular accident as follows :

"The question whether the accused was guilty of negligence in driving the bus and death of the deceased was caused due to negligent driving is a question of fact which depends for its determination on appreciation of the evidence. While the Magistrate, and the Additional Sessions Judge arrived on assessment of the evidence at a concurrent finding of fact that the death of the deceased was caused by negligent driving of bus by the accused and the High Court even though justified in refusing to re-appreciate the evidence reviewed the same in order to justify itself that there was

evidence in support of the finding and that the finding was not perverse, came to the conclusion that the evidence established the death of the deceased was caused by the negligent driving of the bus by the accused, the Supreme Court on an appeal under Article 136 refused to interfere."

8. **In State of Orissa v. Nakula Sahu and Ors., (AIR 1979 Supreme Court 663)** it was held that the High Court should not have interfered with the concurrent findings recorded by the Trial Court and the Sessions Judge in exercise of revisional jurisdiction when there was no error of fact or law arrived at by the Trial Court or the Sessions Judge. In **State of Kerala v. Puttamana Illath Jathavedan Namboodiri, 1999(1) RCR (Criminal) 808 : (1999 (2) SCC 452)** it was held that the revisional jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate Court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice.

9. We find that the trial Court and the Revisional Court have analysed the evidence in detail to come to the conclusion about the guilt of the accused. There is no manifest error in the conclusions or in analyzing the evidence. That being so, the High Court was justified in law in not exercising revisional jurisdiction."

10. Further, Apex Court in **State Rep. By The Drugs Inspector vs. Manimaran (2019) 13 SCC 670** held as under :

"15.....When there is concurrent findings by the courts below, the High Court ought not to have interfered with the same in exercise of its revisional jurisdiction. The revisional jurisdiction of the High Court is different from the appellate

jurisdiction. The High court will not normally interfere with the concurrent findings of fact, unless the findings of fact arrived at by the courts below is perverse or that the court has ignored the material evidence while arriving at that finding. As held in **State of Kerala v. Puttumana Illath Jathavedan Namboodiri (1999) 2 SCC 452**, ordinarily it would not be appropriate for the High Court to reappraise the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as by the Sessions court in appeal. When the courts below recorded the concurrent findings of fact, in our view, the High Court was not right in interfering with the concurrent findings of fact arrived at by the courts below and the impugned order cannot be sustained.”

11. Thus, taking into consideration the facts and circumstances of the case and keeping in view the finding recorded by the Trial Court to the effect that 'forgery' is not made out against the accused persons on the face of the allegations levelled, this Court finds that no case for exercising revisional jurisdiction is made out in the absence of there being any glaring error of law.
12. Consequently, the present revision petition is dismissed.

December 11, 2023
Dpr (PANKAJ JAIN)
JUDGE

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