

250

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

CRR-1805-2019 (O&M)

Date of decision: 13.07.2023

Dr. Paramjit Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Kunal Vinayak, A.A.G., Punjab.

PANKAJ JAIN, J. (ORAL)

The complainant/petitioner is in revision challenging the judgment of acquittal of respondent No.2 passed by Ld. Trial Court and affirmed by Ld. Appellate Court in appeal.

2. On the complaint made by petitioner, FIR No.544 dated 03.12.2009, under Sections 451, 447, 511, 323, 427, 506 & 342 IPC, was registered at P.S. Kotwali, Patiala. Respondent No.2 was tried and Ld. Trial Court acquitted him after appraising the evidence threadbare holding that there is a mark improvement in the testimony of petitioner before the Court. Application moved by the complainant before police Ex.DB and the statement recorded under Section 161 Cr.P.C. Ex.PA are totally different and nowhere find mention of accused Rajwinder Singh and Mohinder Singh. Even the witness namely Harish Kumar was introduced by the complainant for the first time in his examination-in-chief before the Court. *Qua* offences

punishable under Sections 451 & 447 IPC, the Court found that the complainant has not been able to prove his possession/ownership over the shop in question and thus offences under Sections 451 & 447 IPC are not made out. In appeal, the Ld. Appellate Court after reappraising the whole evidence found that there was no reason to interfere in the findings recorded by Ld. Trial Court and affirmed the same. After hearing counsel for the petitioner, this Court finds that there is no legal infirmity in the judgment of acquittal passed by Ld. Trial Court and affirmed by Ld. Appellate Court.

3. Revisional jurisdiction under Section 401 Cr.P.C. is limited and as per settled law unless any error of law on the part of Ld. Trial Court is pointed out, the same cannot be pressed seeking re-appreciation of evidence. Reference can be made to the judgment of Supreme Court in the matter of *Thankappan Nadar and others vs. Gopala Krishnan and another, 2002(9) SCC 393*. As per settled law the revisional jurisdiction can be exercised by the High Court in the cases of legal infirmities and as per the series of the precedents some of the illustrative categories are:

- i) where the Trial Court has wrongly shut out evidence which the party wish to produce.
- ii) where the admissible evidence brought on record by the defence has been wrongly brushed aside as inadmissible.
- iii) where the trial court had no jurisdiction to try the case and yet the accused stands convicted.
- iv) where the material evidence has been overlooked either by the Trial Court or the Appellate Court or the order has been passed by considering irrelevant evidence.
- v) where the conviction is based upon a view which is impossible and improbable.

- 4. Exercise of revisional jurisdiction under Section 401 Cr.P.C. is much narrow as compared to appellate jurisdiction.
- 5. Ld. Counsel for the petitioner has not been able to point out any circumstance which would warrant exercise of revisional jurisdiction in the findings recorded by the Courts below.
- 6. In the absence of any jurisdictional or legal error committed by the Courts below, this Court does not find any reason to exercise revisional jurisdiction to reappraise the evidence which is beyond the scope. Consequently, the findings recorded by the Courts below *qua* acquittal of respondent No.2 are affirmed.
- 7. Revision petition is dismissed.
- 8. Pending application(s), if any, shall also stand disposed of.

(PANKAJ JAIN)
JUDGE

July 13, 2023
ashish

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