

CRR-2293 of 2018

2023:PHHC:043375

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

CRR-2293 of 2018

Date of decision: 15.03.2023

Jagtar Singh

.....Petitioner

Versus

Palwinder Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

NAMIT KUMAR, J.

Petitioner has preferred this revision petition under Section 401 Cr.P.C. challenging the judgment dated 07.02.2018 passed by the Court of learned Additional Sessions Judge, Ludhiana, dismissing his appeal against the judgment dated 12.12.2014 whereby respondents No.1 to 5 have been acquitted of the charges in a case arising from FIR No.36 dated 12.03.2004 under Sections 420, 406, 120-B IPC, registered at Police Station Division No.6, Ludhiana.

Brief facts of the case are that petitioner-complainant-Jagtar Singh filed a complaint pleading therein that respondent No.2-Gurcharan Singh told him in the year 2002 that he was having one plot, situated at Gobind Steel Rolling Mill, Gobindgarh, which was purchased by him from respondent No.1-Palwinder Kaur on

CRR-2293 of 2018

2023:PHHC:043375

20.05.1995. It was further averred that he got prepared the agreement to sell in this regard. Respondent No.2-Gurcharan Singh told the petitioner that he has no requirement of this property and wants to sell the same. Respondent No.2 enticed and induced him into purchasing the said plot and told him that he shall get the sale deed executed directly in his name from respondent No.1-Palwinder Kaur and took Rs.1,50,000/- as the entire payment towards the purchase of said plot, from him and executed an agreement in his favour. Petitioner asked respondent No.2 for executing the sale deed of this property, but he kept putting off the matter on one pretext or the other. It was further averred that later on he came to know that respondent No.1-Palwinder Kaur had already sold this property to some other person and when the petitioner told respondent No.2-Gurcharan Singh about this fact, he stated that he already knew about the same and that the petitioner-complainant came to know that respondent No.2-Gurcharan Singh and respondent No.1-Palwinder Kaur had committed cheating with him in conspiracy with each other and they had already sold the property in question to someone else and when he asked them to get the sale deed executed, they told him that they would not do so and they threatened the petitioner that if he again asked for the sale deed, then he would face dire consequences. Thereafter, the present case was registered against the accused. After completion of entire investigation, challan was presented in the Court. Copies of challan/documents were supplied to the accused free of cost as required under Section 207 Cr.P.C. On finding prima facie case, charges under Sections 420, 120-

CRR-2293 of 2018

2023:PHHC:043375

B IPC were framed against respondents No.1 to 5 to which they did not plead guilty and claimed trial.

To prove its case, prosecution examined as many as five witnesses and thereafter evidence was closed by order of the Court. Thereafter, statements of respondents No.1 to 5-accused were recorded under Section 313 Cr.P.C. in which incriminating evidence appearing against them in the statements of witnesses was put to them. They denied all the allegations leveled against them and pleaded false implication in the case. In order to rebut the case of the prosecution, respondents No.1 to 5-accused examined as many as three witnesses and thereafter closed their defence evidence.

After hearing learned counsel for the parties, trial Court vide judgment dated 12.12.2014 acquitted respondents No.1 to 5 by observing as under: -

“21. Thus in view of the ratio of case law as discussed above, in the light of fact and circumstances of this case, I find that the present case is nothing but a civil transaction between the parties which has been given a criminal colour. The prosecution has been miserably failed to establish on record the hatching of criminal conspiracy by all the accused and has also failed to prove the existence of prior dishonest intention to induce and cheat the complainant, which was alleged to have been hatched by all the accused to cause wrongful gain to themselves and wrongful loss to the complaint. Thus in nutshell the prosecution has miserably failed to the content of the charge which were leveled against the accused beyond the shadow of reasonable doubt.

22. It is cardinal principle of criminal jurisprudence that prosecution has to prove its case beyond the shadow of reasonable doubt against the accused but in this case, as discussed above the prosecution has failed to prove its case beyond shadow of reasonable doubt against the accused. Therefore, present accused persons are hereby acquitted from the charges framed against them by giving benefit of doubt. Their bail bonds and surety bonds are discharged. Case property be dealt with as per rules after expiry of period of appeal/revision, if any. File be consigned to the record room after due compliance.”

Aggrieved against the judgment of acquittal of the trial Court dated 12.12.2014 petitioner preferred appeal, which has also been dismissed by the appellate Court vide judgment dated 07.02.2018 by observing as under: -

“22. Further, herein the Trial Court had acquitted the accused-respondents no. 1 to 5 while giving them benefit of doubt. It is a settled position of law that a judgment of acquittal infact raises a double presumption of innocence in favor of the accused. It is also settled position of law that if two reasonable conclusions are possible on the basis of evidence coming on the file, then the findings of acquittal should not be disturbed. It has been so held by the Hon'ble Supreme Court in case titled as State Rep. By Inspector of Police, T.N. versus Manikandan and ors. Reported in 2015 (2) RCR (Criminal) 912. Herein, this court upon appraisal of the entire evidence does not find any reason or material to hold that the view taken by the Trial Court was erroneous or legally not sustainable.

23. Thus, keeping in view all the facts and circumstances of the case and the evidence on record, the learned trial court has rightly acquitted the accused/respondents no. 1

to 5 by giving them benefit of doubt, as it cannot be said that prosecution had been able to prove its case beyond shadow of reasonable doubt and the said view is plausible keeping in view the evidence on record.

24. As a sequel of my above discussion, the appeal of the appellant fails and the same is hereby dismissed and the judgment of the learned trial court is upheld. Lower Court file be returned along with copy of this judgment. File be consigned to the Record Room after due compilation.”

Hence, this revision petition.

Learned counsel for the petitioner contended that both the Courts below have erred in law in acquitting respondents No.1 to 5 as they failed to appreciate that respondents-accused have committed cheating with the petitioner.

I have heard learned counsel for the petitioner and perused the record.

From the perusal of the judgments of both the Courts below it transpires that civil dispute has been given the criminal colour. Petitioner without availing appropriate civil remedy under the law initiated criminal proceedings against respondents No.1 to 5-accused. Both the Courts have rightly held that prosecution has failed to prove its case beyond reasonable doubt.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

CRR-2293 of 2018

2023:PHHC:043375

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

Finding no merit in the present revision petition, the same is dismissed.

15.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No