

2023:PHHC:116220

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

SR. No.242

CRR-313-2018 (O&M)

Date of decision:04.09.2023

Sharwan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. S.K. Yadav, Advocate for the petitioner

N.S. SHEKHAWAT, J.

CRM-2967-2018

Applicant-petitioner prays for condonation of delay of 05 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed. The delay of 5 days in filing the revision petition is condoned.

Main case

1. The petitioner has filed the present criminal revision petition before this Court to challenge the correctness of the impugned judgment dated 05.08.2017 passed by the Additional Session Judge, Ambala and the judgment dated 24.02.2016 passed by the Court of Chief Judicial Magistrate, Ambala, whereby the respondents were ordered to be acquitted of the charge.

2. As per the case of the petitioner/complainant, the prosecution was ordered to be initiated against respondents No.2 to 4 on the basis of a complaint Ex.PW-7/B, submitted by Mohan Lal. It was alleged by the complainant that on 01.05.2016, Pritpal Singh, respondent No.2, who was a property dealer and was an acquaintance of the complainant, had offered him to purchase land near the milk plant and a power of attorney was required to be prepared from Delhi. Respondent No.2 took thumb impressions and signatures of the complainant on blank stamp papers, however the said transaction could not materialise finally. It was alleged that respondent No.2 and other accused misused the blank signed papers and prepared a false agreement to sell regarding the sale of his house, whereas the complainant had not entered into any such agreement to sell nor had obtained any earnest money from them. Thus, a fraud was committed with the petitioner/complainant by preparing forged and fabricated agreement to sell in favour of the accused.

3. Learned counsel for the petitioner submits that both the courts have completely misappreciated the evidence on record. He further submits that the private respondents had forged and fabricated the agreement to sell dated 25.05.2006 and even the said allegation stood proved during the course of investigation. Learned counsel next submits that the petitioner cannot be penalised on account of the fault on the part of the investigating agency as the police had failed to take into possession the material documents, during the course of investigation and such documents could be produced before the appellate court by way of Section 391 Cr.P.C. Learned counsel further submits that even during the course of trial, sufficient

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

5. From the record, it is evident that the prosecution was ordered to be launched against respondents No.2 to 4 on the basis of the complaint moved by Mohan Lal with regard to the fraud committed by the accused upon him by preparing a forged and fabricated agreement to sell of his house in their favour. However, during the course of trial, Mohan Lal was stated to have expired and the sons of Mohan Lal were examined as PW-1, PW-3 and PW-6. The trial Court rightly observed that the testimonies of the said witnesses could not have been relied upon by the courts as neither the signatures/thumb impressions of Mohan Lal had been obtained in their presence nor the complainant was allegedly taken away by the respondents/accused in front of them. Even the prosecution miserably failed to prove the fact that Mohan Lal, the complainant, was wrongfully confined by any person and that his signatures/thumb impressions were obtained under pressure or coercion. Thus, the basic facts, which constituted the offence in the present case, were not established by the prosecution by leading any evidence. Still further, even PW-1 Sharwan Kumar, son of the complainant, admitted himself that his father had never told him regarding his signatures having being obtained on blank papers forcibly by the accused between 27.09.2007 to 31.10.2007. Even he failed to depose with regard to the date, when Mohan Lal was given a push into the Ganges. Still further, the petitioner also tried to fill up the lacuna by moving an application under Section 391 Cr.P.C. for examination of Ashok Kumar, police officials and other witnesses, who were examined during the course of enquiry conducted

made clear that the evidence of the petitioner was ordered to be closed by the order of court and the said order was never challenged by the petitioner. Even an application under Section 311 Cr.P.C. filed by the petitioner was ordered to be dismissed by the trial Court and the revision against the said order was also ordered to be dismissed by the Additional Session Judge, Ambala as well as this Court. Later on, the petitioner moved an application under Section 391 Cr.P.C. on the same grounds, which was not at all maintainable.

6. I have also perused the reasons recorded by the 1st Appellate Court, wherein the evidence led by the petitioner has been discussed in detail and has been rightly disbelieved. Detailed reasons have been recorded by both the courts, while rejecting the case of the petitioner. Furthermore, during the course of hearing, learned counsel for the petitioner could not point out any jurisdictional error or patent illegality apparent on the record of the case so as to convince this Court to take a different view than the one taken by the courts below.

7. In view of the above-said discussion, the present criminal revision petition is hereby dismissed. Pending application, if any, shall also stand disposed of.

(N.S. SHEKHAWAT)
JUDGE

04.09.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO