

CRR-1180-2020

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(227) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1180-2020
Date of Decision: 15.09.2023

JASVIR KUMAR @ BOBBY

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. A.S. Barnala, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab
for respondent No.1.

Mr. Vishal Singh Borwal, Advocate
for the complainant.

JASJIT SINGH BEDI, J (Oral)

The present revision petition has been filed against the judgment dated 10.10.2019 passed by the Additional Sessions Judge, Hoshiarpur vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 31.10.2017 passed by the learned Judicial Magistrate, 1st Class, Garhshankar, has been dismissed.

2. The brief facts of the case are that the complainant-Sham Sunder Suman son of Lehmbar Ram moved a complaint No.931-SSP dated 26.03.2012 to the SSP, Hoshiarpur in which the complainant alleged that he was having an intention to go abroad and the accused namely, Jasvir Kumar (petitioner) son of Sham Lal who was a resident of his village had offered to send him abroad many times. On this, he agreed and a deal was struck for Rs.6,50,000/- with the accused. The accused agreed to send him abroad

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within two months failing which, he would return the entire amount to him. He (complainant) paid Rs.6.00 lacs to the accused on 01.10.2011 through cheque No.016686 dated 01.10.2011 of Axis Bank, Branch, Garhshankar and the accused executed a writing that he would send him abroad (France) by 20.10.2011. However, the accused failed to send him to France. In November, 2011, the accused showed him (complainant) the photocopies of air tickets and informed him (complainant) that his seat had been confirmed for 23.11.2011 and he (accused) also demanded the remaining amount of Rs.50,000/- from him (complainant). On this, he (complainant) paid the remaining amount of Rs.50,000/- to him (accused) in the presence of witnesses. However, the accused failed to send him to France on 23.11.2011 and later on the air tickets were also found to be fake. Thereafter, he (complainant) convened a Panchayat in the village, in which the accused admitted that he would return his entire amount with interest of Rs.20,000/-. The accused issued a cheque No.056818 dated 30.01.2012 of HDFC Bank, in favour of his (complainant's) father but the said cheque was dishonoured due to insufficient funds in his account. Thereafter, he (complainant) again convened a Panchayat, in which, the accused again admitted that he would return his entire amount in instalments and the accused had paid Rs.3.00 lacs to him in instalments but the remaining amount of Rs.3,70,000/- outstanding against him had not been returned. The accused had also raised threats to kill him (accused) and had also threatened to implicate him in false criminal cases. The matter was reported to the police but no action was taken against the accused. Later, the FIR came to be registered.

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3. Based on the aforementioned complaint, the petitioner was summoned to face trial and after the evidence had been led, he was convicted and sentenced to undergo rigorous imprisonment under Section 420 IPC for a period of 02 years.

4. Pursuant thereto, the petitioner preferred an appeal before the Court of the learned Additional Sessions Judge, Hoshiarpur, which came to be dismissed on 10.10.2019.

5. After the appeal had been dismissed, the present revision petition has been preferred by the petitioner before this Court.

6. During the course of the pendency of the present petition, a compromise dated 22.05.2023 (Annexure P-5) has been effected between the accused-petitioner and the respondent/complainant.

7. In terms of Section 320(2) Cr.P.C., the offence under Section 420 IPC can be compounded with the permission of the Court by the person cheated. In the present case, the complainant has effected a settlement and the same is on record as Annexure P-5. He (through his counsel) has appeared in Court today and has endorsed the said settlement as well.

8. A perusal of Section 320(6) Cr.P.C. would show that the High Court or the Court of Session acting in the exercise of its power of revision under Section 401 Cr.P.C. may allow any person to compound an offence which such person is competent to compound under this Section. Section 320(8) Cr.P.C. states that the effect of the composition of an offence is that the accused is to be acquitted. A combined reading of Section 320(2) Cr.P.C., Section 320(6) Cr.P.C. and Section 320(8) Cr.P.C. leaves no doubt that an

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offence under Section 420 IPC can be compounded at the instance of the person cheated, with the permission of the Court at the revisional stage and the effect of such composition is that the accused is to be acquitted. The said proposition of law has been set down in '*P. Ramaswamy Vs. State (U.T.) of Andaman and Nicobar Islands, 2013(3) RCR (Criminal) 760*' and '*Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245*'.

9. In view of the aforementioned discussion, the settlement effected between the parties and the provision of law as enumerated hereinabove, the present petition is allowed. The judgment dated 10.10.2019 passed by the Additional Sessions Judge, Hoshiarpur and the judgment of conviction and the order of sentence dated 31.10.2017 passed by the Judicial Magistrate, 1st Class, Garhshankar are hereby set aside and the petitioner is acquitted of the charges framed against him.

(JASJIT SINGH BEDI)
JUDGE

15.09.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No