

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

CRR-2292-2019 (O&M)
Date of Decision: 20.04.2023

MADAN LAL

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Ms. Ramneet Kaur, Advocate
for Mr. Gurdarshan S. Sidhu, Advocate
for the petitioner.

Mr. Ram Kumar Singla, D.A.G., Haryana.

HARSH BUNGER, J. (ORAL)

CRR-2292-2019

There is delay of 15 days in filing the present appeal.

For the reasons stated in the application, the same is allowed
and delay of 15 days in filing the present appeal is condoned.

Criminal Misc. Application stands disposed of accordingly.

CRR-2292-2019

Petitioner-Madan Lal, has filed the present criminal revision petition, challenging the judgment dated 16.01.2018 passed by learned Sub Judicial Magistrate, Ellanabad; whereby, respondents No.2 and 3-accused were acquitted of the charges framed against them in case FIR No.222 dated 20.08.2013, under Sections 406, 212, 379 and 120-B of the Indian Penal Code, registered at Police Station Rania, District Sirsa.

2. The petitioner has further impugned the judgment dated 10.05.2019 passed by learned Sessions Judge, Sirsa (Haryana); whereby, the appeal filed by him against the judgment of acquittal dated 16.01.2018 passed by learned Sub Divisional Judicial Magistrate, Ellenabad, was also dismissed.

3. Briefly, the above-said case FIR No.222 dated 20.08.2013 was registered on the complaint of the petitioner (MadanLal), who alleged that on 18.07.2013, respondent No.3/accused-Om Parkash took him to Village Mithri (Rajasthan) and showed him a piece of land for sale. As per the complaint, the complainant along with respondent No.3/accused-Om Parkash went to Village Mithri on 19.08.2013 for registration of sale deed of the land already shown to him. It was alleged that the complainant went on his Bolero car bearing Registration no.HR-44F-1917 and he took Rs.5,50,000/- with him. However, since the vendor did not come present at the spot, therefore, the sale deed could not be executed. It was further alleged that while coming back, at about 9:00 p.m., near Village Dhudianwali, respondent No.3/accused-Om Parkash, who was driving car, stopped it for answering the call of nature, then he came back to the car earlier than petitioner-Mohan Lal and forcibly took it away along with the money. Accordingly, the above-said case FIR was registered and the investigation was carried out.

4. After completion of investigation, final report under Section 173 of the Code of Criminal Procedure, was filed and upon finding a *prima facie* case, respondent No.3/accused-Om Parkash was charge sheeted under Sections 120-B, 392 and 406 IPC, whereas, respondent No.2/accused-Ranjit

Singh was charge-sheeted under Sections 212 and 120-B IPC; to which they pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined the following witnesses :-

<i>Sr. No.</i>	<i>PW</i>	<i>Name of the witness</i>
1	PW1	MadanLal (complainant)
2	PW2	Hemraj
3	PW3	EHC Partap Singh
4	PW4	SI Jeet Singh
5	PW5	ASI Mahavir Singh
6	PW6	E/ASI Sita Ram
7	PW7	ASI Naresh Kumar
8	PW8	HC Ranjit Singh
9	PW9	SI Dharamvir Singh

Thereafter, the prosecution evidence was closed by order of the Court.

6. After closure of the prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C., wherein, they denied the allegations levelled against them and pleaded false implication. However, no evidence in defence was led by the accused.

7. Learned trial court, after appreciating the evidence as well as the material available on the record, acquitted the respondents No.2 and 3 (accused) of the charges framed against them vide judgment of acquittal dated 16.01.2018.

8. Being dis-satisfied with the afore-said judgment of acquittal, the petitioner filed a Criminal Appeal before the Court of Sessions Judge,

Sirsa, which was also dismissed vide judgment dated 10.05.2019. Accordingly, the petitioner has come up in the present criminal revision petition before this Court.

9. Learned counsel for the petitioner submits that the impugned judgment of acquittal passed by the trial Court as well as the judgment passed by the lower Appellate Court, are wrong and perverse as the learned Courts below have failed to consider and appreciate the evidence available on the record in its right perspective and had wrongly acquitted respondents No.2 and 3/accused. It is submitted that all the witnesses examined before the trial Court had fully supported the version of the petitioner/complainant, however, learned Courts below have not properly evaluated the testimonies of the witnesses. Accordingly, it is prayed that the present petition may be allowed by setting aside the impugned judgments and respondents No.2 and 3/accused may be convicted and sentenced accordingly.

10. I have heard learned counsel for the petitioner and have perused the paper-book as well as impugned judgment dated 16.01.2018 passed by learned Sub Judicial Magistrate, Ellenabad, as well as judgment dated 10.05.2019 passed by learned Sessions Judge, Sirsa.

11. It is well settled that scope of revisional jurisdiction of this Court is quite limited and the Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment under challenge.

12. Hon'ble Apex Court in ***Johar and others v. M/s Mangal Prasad and another, 2008(3) SCC 423*** while dealing with the scope of revisional jurisdiction, has observed as under:-

"17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under

section 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal."

13. The factum of powers of the revisional court dealing with the revision against acquittal being extremely limited was reiterated by the Hon'ble Supreme Court in the case of ***K. Ramachandran v. V.N. Rajan&Anr. 2010(5) RCR (Criminal) 237***, wherein it was held as under:-

"This question has been considered in the celebrated judgment of AkaluAhir&Ors. v. Ramdeo Ram [(1973) 2 SCC 583], where, after considering the judgments of D. Stephens v. Nosibolla [1951 SCR 284], LogendranathJha v. Polailal [1951 SCR 676], K.C. Reddy v. State of Andhra Pradesh [(1963) 3 SCR 412] and MahendraPratap Singh v. Sarju Singh [(1968) 2 SCR 287] this Court came out with categories of case which would justify the High Court in interfering with the finding of acquittal in revision:

- "(i) Where the trial Court has no jurisdiction to try the case, but has still acquitted the appellant- 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."*

Of course, these categories were declared by this Court to be illustrative and this Court observed that other cases of similar nature could also be properly held to be exceptional in nature where the High Court could justifiably interfere with the order

of acquittal. In this very judgment though in paragraph 10, this Court did not generally approve of the appreciation of evidence by the Trial Court Judge and held it to be not perfect or free from flaw and further observed "the Court of appeal may be justified in disagreeing with the conclusion, but it does not follow that on revision by a private complainant, the High Court is not entitled to reappraise the evidence for itself as if it is acting as a Court of appeal and then order a re-trial."

14. In the case of **Hydru v. State of Kerala, {2004 (13) SCC 374}**, the Hon'ble Supreme Court has held as under:-

"3. From a bare perusal of the impugned order, it would appear that the High Court upon reappraisal came to a conclusion different from the one recorded by the appellate court. It is well settled that in revision against acquittal by a private party, the powers of the Revisional Court are very limited. It can interfere only if there is any procedural irregularity or material evidence has been overlooked or misread by the subordinate court. If upon reappraisal of evidence, two views are possible, it is not permissible even for the appellate court in appeal against acquittal to interfere with the same, much less in revision where the powers are much narrower. No procedural irregularity has been found by the High Court in the order of the Sessions Court whereby the appellant was acquitted. Therefore, we are of the view that the High Court was not justified in interfering with the order of acquittal in exercise of its revisional powers, as such the same is liable to be interfered with by this Court".

15. In the case of **Satyajit Banerjee v. State of West Bengal, 2005(1) RCR (Crl.) 723**, the Apex Court laid down that revisional jurisdiction, at the instance of the complainant has to be exercised by the High Court only in very exceptional cases, where the interest of public

justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice.

16. Coming to the facts of the case, learned lower Appellate Court, while dismissing the appeal of the petitioner against judgment of acquittal passed by the trial Court, returned the following findings :-

“21. According to complainant, accused person had cheated and looted him but interestingly challan was prepared under Section 406 and 379 IPC. Although facts of the case disclose a case of robbery. It is no case under Section 406 IPC. Bolero and money were not handed over to him. So, there is no entrustment. It can be an offence under Section 379 IPC or robbery. But there is no other evidence to support complainant. He failed to prove source of Rs.5,50,000/-. It is also not convincing that he went there to buy land without seeing revenue record of said land even once. He acted against all set principles of human behaviour. When a land is purchased first step of buyer is to look at its title deed or revenue record if it is agriculture land. But in this case he did not do anything like this. It shows that it is not a case of purchase of land. He failed to prove source of Rs.5,50,000/-

22. As per complainant, accused had taken him to Rajasthan. He looted him when they were near village Dhudianwali while returning home. But accused had no reason to wait for that long when he had sufficient opportunity to loot him in Rajasthan itself far away from human habitation. But he waited upto the boundary of Haryana. That too when Police Station was just 1 Km away. This version does not inspire any confidence. Accused have been rightly acquitted by the trial court.

23. Here, it cannot be overlooked that an order of acquittal can be over ruled only if it suffers from perversity which is not here. After acquittal there arises

double presumption of innocence in favour of accused and same cannot be taken away only because appellate court is of view different from one taken by trial court. So appeal has no merit and deserves to be rejected.

24. In view of above discussion, it is held that there is no illegality or infirmity in the impugned judgment of acquittal and thus same is hereby affirmed. Consequently, appeal stands dismissed.”

17. Keeping in view the legal position as indicated in foregoing paras and upon considering the reasoning recorded by learned Courts below while acquitting respondents No.2 and 3, I do not find any illegality or infirmity with the impugned judgments, apparent on the face of the same, which may call for any interference by this Court, while exercising its revisional jurisdiction. There is nothing on the record to show that the Courts below had exceeded its jurisdiction or refused to exercise jurisdiction, while passing the impugned judgments. The impugned judgments are certainly not perverse or having been passed in violation of settled principles of criminal jurisprudence. No procedural irregularity or illegality has been pointed out. Impugned judgments are based upon proper appraisal and appreciation of evidence and as per law.

18. Therefore, there is no merit in the present criminal revision petition and the same stands dismissed accordingly.

19. All pending application/s, if any, shall stand closed.

April 20th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No