

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

CRR-706-2024(O&M)
Date of Decision: 10.04.2024

BALKAR SINGH @ BALBIR SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Simranjeet Singh Sarwara, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

CRM-15535-2024

This is an application filed under Section 5 of the Limitation Act,
read with Section 482 Cr.P.C. for condonation of delay of 690 days in filing
the present appeal.

For the reasons mentioned in the application, the same is allowed
and the delay of 690 days is hereby condoned.

CRR-706-2024

The present revision petition has been filed against the order
dated 14.02.2022 passed by the Additional Sessions Judge, Patiala, vide
which the appeal preferred by the petitioner against the judgment of
conviction and order of sentence dated 11.09.2018 passed by the Judicial
Magistrate, 1st Class, Rajpura, has been dismissed.

2. The brief facts of the case are that, the present FIR was registered
on an application moved by complainant-Sampuran Singh PW-3 to the SSP,

CRR-706-2024(O&M)

Patiala, wherein, he had stated that the complainant entered into an agreement to sell dated 29.02.2012 (Ex.PW3/B) with accused/convict Balbir Singh @ Balkar Singh (petitioner). He, firstly, gave Rs.50,000/- as booking amount (sai) to the accused Balbir Singh @ Balkar Singh. The said sai/receipt is dated 24.02.2012 (Ex.PW4/A). Thereafter, he deposited Rs.18.00 lac in the bank account of the accused Balbir Singh @ Balkar Singh. The said agreement was witnessed by Naresh Kumar PW-5 and Parveen Sharma PW-4 and by Sadiq Khan @ Mohd. Sadiq (revision dismissed vide judgment dated 09.03.2022 passed in CRR-389-2022). The complainant further alleged that it was agreed between him and accused Balbir Singh @ Balkar Singh that sale deed would be executed on 29.11.2012. The said agreement was also attested by Notary Public at Court Complex, Rajpura. The Notary Public has also made an entry in this regard in his register. It is further alleged that thereafter, on 22.11.2012, accused Balbir Singh @ Balkar Singh came to the complainant and stated that he could not partition his above said land, so, he was unable to execute the sale deed in favour of complainant on 29.11.2012. He requested that the date of execution of sale deed be extended till 02.05.2013. The complainant agreed to the same and an entry on the back side of agreement to sell dated 29.02.2012 was also made qua the above said fact. Later, on 06.12.2012, when he got the Fard Jamabandi of the property, which was agreed to be sold by accused Balbir Singh @ Balkar Singh, to the complainant, he came to know that the property in question had already been sold by accused-Balbir Singh @ Balkar Singh to accused Mohd. Sadiq vide sale deed dated 31.10.2012 (Ex.PW10/A). Thereafter, he moved an application Ex.PW3/A dated 07.12.2012 to the police for registration of the

above said FIR. Thereafter, the police registered the present case against the accused. Investigation was initiated. The accused were arrested. Statements of witnesses were recorded. After completion of investigation and other necessary formalities, the challan under Section 173 Cr.P.C. was presented against Mohammad Sadeek @ Sadiq Khan and Balbir Singh @ Balkar Singh.

3. On presentation of the challan, copies of the challan and other accompanying documents as relied upon by the prosecution and as envisaged under Section 207 of Criminal Procedure Code, were supplied to the accused free of cost.

4. Finding a *prima facie* against the accused, they were charge-sheeted for offences punishable under Sections 406, 420, 120-B IPC, to which, they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined PW1- Gurpreet Singh, Stamp Vendor, Sub-Tehsil, Ghanaur, ASI Malwinder Singh as PW2, Sampuran Singh, complainant as PW3, Parveen Sharma as PW4, Naresh Sharma as PW5, Rajat Pahwa, Deputy Manager, HDFC Bank as PW6, ASI Jaswinder Pal as PW7, ASI Yashpal as PW8, Tarsem Lal as PW9, Manjit Kumar as PW10, Tarjit Kaur as PW11, Manju Khan as PW12 (wrongly typed as PW11) and SHO Rakesh Kumar as PW13. Thereafter, the evidence of the prosecution was closed by order.

6. After closure of the evidence of the prosecution, statements of the accused under Section 313 Criminal Procedure Code were recorded, in which all the incriminating evidence appearing on record against the accused was put to them, to which, they denied all the allegations and termed the case

to be false and deposition of the witnesses to be false against them and pleaded innocence.

7. In defence evidence, accused Mohammad Sadeek examined Navdeep Gupta, Handwriting and Finger Print Expert as DW1. The accused further examined DW2 Ashwani Kumar, DW3 Kunal Gupta, DW4 Pardeep Thakur and then, the accused/petitioner Mohammad Sadeek himself appeared as DW5.

8. The Trial Court, after hearing the learned A.P.P. for the State and learned counsel for the accused as well as appreciating the evidence on file, vide judgment and order of sentence dated 11.09.2018 convicted the accused as under:-

Sr. No.	Name of Convict	Under Section	Sentence	Fine imposed
1	Mohammad Sadeek @ Sadiq Khan	420 IPC	Rigorous imprisonment three years	Rs.3000/-, in default of payment of fine, Rigorous imprisonment for two months.
2	Balkar Singh @ Balbir Singh	420 IPC	Rigorous imprisonment three years	Rs.3000/-, in default of payment of fine, Rigorous imprisonment for two months.

9. Aggrieved by the judgment and order of sentence dated 11.09.2018 passed by the trial Court, both the appellants preferred separate appeals, which were heard together.

10. After hearing the rival contentions of the parties, the appeals were dismissed and the judgment of the learned trial Court was upheld.

11. Further aggrieved by the dismissal order, the present revision has been preferred.

12. The learned counsel for the petitioner has argued that there was no evidence available against the petitioner. The dispute if any was of a civil nature and thus, the conviction of the petitioner cannot be sustained.

13. I have heard the learned counsel for the petitioner at considerable length.

14. A perusal of the record would reveal that the agreement to sell dated 29.02.2012 (Ex.PW3/B) was executed by the petitioner in favour of the complainant-Sampuran Singh and co-convict Mohammad Sadeek @ Sadiq Khan had duly signed the same as an attesting witness. However, after execution of this agreement to sell on 29.02.2012, the petitioner executed a sale deed dated 31.10.2012 (PW10/A) in favour of Mohammad Sadeek @ Sadiq Khan. Therefore, the contention that it was a civil dispute as after the agreement to sell had been executed the land had been sold to another person is absolutely incorrect. The facts in the present case would show that the offence is clearly made out.

15. Even otherwise, Mohammad Sadeek @ Sadiq Khan had approached this Court by way of CRR-389-2022. After hearing detailed arguments, his revision petition came to be dismissed vide judgment dated 09.03.2022. The case of the petitioner is not distinguishable on facts. In fact, the petitioner is the main accused.

16. In view of the aforementioned discussion, I am of the considered view that there is no merit in this revision petition. Hence, while upholding the impugned judgment of conviction and order of sentence dated 11.09.2018 passed by the Trial Court and the order dated 14.02.2022 passed by the Lower Appellate Court, the present revision petition is hereby dismissed.

17. However, as in the case of the co-convict the sentence has been reduced to a period of 2 ½ years, even in the instant case, as the petitioner is a first time offender and the occurrence is approximately 10 years old, I modify the sentence and reduce it to a period of 2 ½ years. The quantum of fine and sentence in default shall remain intact.

(JASJIT SINGH BEDI)
JUDGE

10.04.2024
JITESH

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