



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

**CRR No.836 of 2024 (O&M)
Date of decision : 16.05.2024**

Aman alias Kali Chappo

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Garima Choudhary, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

Present revision petition is directed against the judgment passed by Sessions Judge, Panipat dated 5th of February, 2024 affirming the judgment of conviction/order of sentence passed by Chief Judicial Magistrate, Panipat dated 25.05.2023 whereby the petitioner stands convicted for offence punishable under Section 379 IPC in case FIR No.541 dated 29.07.2022 registered for the offence punishable under Section 379 IPC, at Police Station City Panipat.

2. As per the case of the prosecution, a complaint was registered by one Ajay to the effect that on 29th of July, 2022 he had gone to Geeta Colony, Panipat for making complaint for repair of air conditioner. On return his motor-cycle was found to be missing. Resultantly, the FIR No.541 dated 29.07.2022 *ibid* came into being.



3. During investigation, the accused/petitioner was arrested on 16th of August, 2022 and he got recovered the stolen motor-cycle. Finding a *prima facie* case against the accused/petitioner for commission of offence punishable under Section 379 IPC, he was charge-sheeted and was put to trial. Trial Court after analysing the evidence threadbare found the petitioner guilty and accordingly sentenced him as under :

**For commission of offence punishable under Section 379 IPC,
of the Convict Aman @ Kali Chappo is sentenced to Rigorous
imprisonment for a period of three(3) years.**

4. In appeal preferred by the petitioner, the conviction as well as sentence stand maintained.

5. Counsel for the petitioner while assailing the judgments passed by the Courts below asserts that the same have been passed without appreciating the evidence on record. He further contends that both the Courts below have failed to consider the fact that the FIR was registered against unknown persons. The evidence of the prosecution rested upon statements of police officials/interested witnesses which was never corroborated by any independent witness and could not be relied upon beyond doubt. A false recovery was planted upon the accused/petitioner.

6. I have heard counsel for the parties and have gone through records of the case.

7. Revisional jurisdiction under Section 401 Cr.P.C. is limited and as per settled law unless any error of law on the face of record is pointed out,



the same cannot be pressed seeking re-appreciation of evidence. Reference can be made to the judgment passed by Supreme Court in the case of in the case of **Bindeshwari Prasad Singh @ B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another, 2002 AIR (SC) 2907** wherein it has been held that -

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a re-trial. **It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in 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.** The High Court will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private



party. (See AIR 1951 Supreme Court 196 : D. Stephens v. Nosibolla; AIR 1962 Supreme Court 1788 : K.C. Reddy v. State of Andhra Pradesh; (1973) 2 SCC 583 : Akalu Ahir and others v. Ramdeo Ram; AIR 1975 Supreme Court 1854 : Patakalapati Narayana Gajapathi Raju and others v. Bonapalli Peda Appadu and another and AIR 1968 Supreme Court 707 : Mahendra Pratap Singh v. Sarju Singh).”

8. This Court finds no merit in the submissions made by counsel for the petitioner. A perusal of the record shows that FIR was lodged on the statement of the complainant and later on the basis of secret information, the accused was arrested and recovery was effect from him only. Both PW3 & PW5 deposed against the accused. Nothing could be extracted from their statements on the basis of which it could be said that they were deposing falsely or their statements could not be relied upon. No inconsistency could be pointed out by counsel for the petitioner. Non-joining of the independent witness was not a *sine qua non* for disbelieving the statements of PW3 and PW5 *in toto*. Same issue was discussed by the Apex Court in the case of **Surinder Kumar vs. State of Punjab, (2020) 2 SCC 563** wherein the Court held that non-examination of independent witness is not fatal to the case of the prosecution and observed as under :

15. The judgment in the case of **Jarnail Singh v. State of Punjab, (2011) 3 SCC 521 : 2011(1) RCR (Criminal) 925**, relied on by the counsel for the respondent-State also supports the case of the prosecution. In the aforesaid judgment, this Court has held that merely because prosecution did not examine any independent witness, would not necessarily lead to conclusion that accused was falsely implicated. The evidence of official witnesses cannot be



distrusted and disbelieved, merely on account of their official status. In the case of *State, Govt. of NCT of Delhi v. Sunil & Anr., (2001) 1 SCC 652 : 2001(1) RCR (Criminal) 56* it was held as under:

"It is an archaic notion that actions of the Police Officer, should be approached with initial distrust. It is time now to start placing at least initial trust on the actions and the documents made by the Police. At any rate, the Courts cannot start with the presumption that the police records are untrustworthy. AS a presumption of law, the presumption would be the other way round. The official acts of the Police have been regularly performed is a wise principle of presumption and recognized even by the Legislature".

9. The complainant has proved on record pen-drive containing CCTV footage regarding the incident in which the accused has been seen committing theft of the motorcycle in question. Thus, in the considered opinion of this Court the charge for offence punishable under Section 379 IPC stands proved against the petitioner and there is no glaring error of law that can call for interference in the findings recorded by the Courts below.

10. Resultantly, the present revision is dismissed.

16.05.2024
Dpr

(PANKAJ JAIN)
JUDGE

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