



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

CRM-M-6735-2017
Reserved on 14.10.2024
Date of decision: 25.10.2024

Jasbir Singh and Another

...Petitioners

Versus

Inderjit Singh and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. T.S. Grewal, Advocate for the petitioners.

Mr. Arav Gupta, Advocate for respondent No.1.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 482 Cr.P.C seeking quashing of order dated 12.01.2017 (Annexure P-1) passed by the Court of Additional Sessions Judge, Jind whereby the revision petition filed by complainant/respondent No.1 against the order dated 03.01.2014 passed by the Court of Sub Divisional Judicial Magistrate, Narwana, was allowed.

2. The brief facts of the case are that respondent No.1 Inderjeet Singh filed criminal complaint against the petitioners under Sections 419, 420, 467, 468, 471, 473/474/120-B IPC in the Court of Illaqa Magistrate concerned wherein it was alleged that respondent No.1 and petitioner No.1 purchased Shop No.47 in Grain Market, Dhamtan Sahib in an open auction vide conveyance deed dated 17.09.2009. Petitioners who are father and son prepared one fake rent deed dated 18.08.2011 regarding above-said shop



and got licence of Commission agent under the name of Darshan Singh. The aforesaid fake rent deed was never signed by respondent No.1 and is bearing his fake signatures. Respondent No.1 came to know about the said fraud and forgery on 16.03.2012 when his brother went to office of Market Committee, Narwana to get his firm registered. The matter was also reported to the police but police failed to take any action.

3. During preliminary evidence, respondent No.1 Inderjeet Singh himself appeared in the witness box as CW-1 and closed his evidence. The learned trial Court vide order dated 03.01.2014 dismissed the said complaint for want of evidence, at the stage of summoning.

4. Being aggrieved, respondent No.1 Inderjeet Singh filed revision petition wherein petitioners appeared and contested the said petition.

5. The revision petition filed by respondent No.1 was allowed by the Court of Additional Sessions Judge, Jind vide order dated 12.01.2017 and the matter was remanded back to the learned trial Court with direction to pass a fresh speaking order after discussing and appreciating the expert report available on the file.

6. Now the petitioners have approached this Court to assail order dated 12.01.2017 passed by the Court of Additional Sessions Judge, Jind.

7. The counsel appearing on behalf of the petitioners has submitted that during the preliminary evidence, only respondent No.1 got recorded his statement before the trial Court in the criminal complaint titled Inderjeet Singh Vs. Jasbir Singh and another. It has been further submitted that in his preliminary evidence, respondent No.1 failed to examine any



document expert to *prima facie* establish the allegations of forgery against the petitioners. It has been further submitted that the Court of Additional Sessions Judge wrongly relied upon a report dated 20.11.2015 submitted by Dr. Jassy Anand hand writing expert which was not part of the afore-said criminal complaint and was not in existence even at the time of passing of order dated 03.01.2014 whereby the said complaint was dismissed by the trial Court at the stage of summoning. It has been further submitted that the revision petition was filed by respondent No.1 on 23.02.2016 to challenge aforesaid order dated 03.01.2014. That in order to bring the said revision petition within a period of limitation, respondent No.1 produced above-said report of hand writing expert dated 20.11.2015. It has been further submitted that respondent No.1 cannot take any benefit of the order dated 04.02.2016 (Annexure P-5) passed by this Court in CRM-M-4095-2016, as earlier respondent No.1 filed petition under Section 482 Cr.P.C to challenge the aforesaid order dated 03.01.2014 and the said CRM-M-4095-2016 was dismissed as withdrawn vide order Annexure P-5 which reads as follows:-

“Present:-- Mr. G.S. Kaura, Advocate for the petitioner.

After arguing for some time, learned counsel for the petitioner wishes to withdraw this petition with liberty to the petitioner to first file the revision petition before the Court of Session.

Dismissed as withdrawn with aforesaid liberty. However, it is made clear that if the petitioner files revision petition, then the revisional Court may condone the delay which has been spent in pursuing the present proceeding before this Court only.”

Dated: 04.02.2016

*Sd/-
JUDGE”*

8. The counsel for the petitioners has further contended that the impugned order deserves to be set aside being not passed in accordance with law.

9. The present petition has been contested by respondent No.1, it



has been submitted that there is no illegality or conformity in the impugned order. That the delay in filing of the revision petition before the Court of Session was fully explained and rightly condoned by the revisional Court while passing the impugned order. It has been further contended that the revisional Court has got vast powers under Section 398 Cr.P.C to give direction to the trial Court to make further inquiry into any complaint which was dismissed under Section 203 or 204 (4) Cr.P.C. That in this manner, the revisional Court rightly passed order dated 12.01.2017 whereby the matter was remanded back to the trial Court to pass a fresh speaking order after appreciating the report of hand writing expert dated 20.11.2015. It has been further submitted that the present petition deserves to be dismissed being devoid of merits.

10. I have considered the submissions made by counsel for the parties.

11. The statutory provision of Section 398 Cr.P.C read as follows:-

398. Power to order inquiry.

“On examining any record under Section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under Section 203 or sub-section (4) of Section 204, or into the case of any person accused of an offence who has been discharged :

Provided that no Court shall make any direction under this Section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.”

12. Now coming to the facts of the present case, it is evident that respondent No.1 Inderjeet Singh filed criminal complaint against the petitioners under Sections 419, 420, 467, 468, 471, 473/474/120-B IPC in the Court of Illaqa Magistrate, wherein respondent No.1 examined himself as CW-1 and closed the preliminary evidence. The said complaint was



dismissed at the stage of summoning, by the Court concerned vide order dated 03.01.2014. From the perusal of the aforesaid criminal complaint, it appears that list of witnesses proposed to be examined by the complainant in the said complaint also included the name of Dr. Inderjeet Singh Arora, fingerprint expert along with his report. However, the said document expert was not examined by the complainant during his preliminary evidence in the complaint. It is also evident that complainant filed revision petition against the aforesaid order dated 03.01.2014. However, in the said revision petition, respondent No.1 did not rely upon any such report submitted by Dr. Inderjeet Singh Arora, hand writing expert. From the perusal of the record of the revision petition, it could be easily made out that in the aforesaid revision petition, the complainant produced one report dated 20.11.2015 of another hand writing expert namely Dr. Jassy Anand. Undoubtedly, the aforesaid revision petition was filed by the complainant after about 2 years of the dismissal of complaint by the Court of Illaqa Magistrate. The report of the document expert dated 20.11.2015, which was relied by the complainant in the revision petition was not in existence when the criminal complaint was filed and later on when the complaint was dismissed vide order dated 03.01.2014. Thus, making it clear that only the report of hand writing expert namely Dr. Inderjeet Singh Arora was relied upon by the complainant in the criminal complaint. However, in the revision petition, the complainant did not mention anything about the abovesaid report if any given by Dr. Inderjeet Singh Arora, hand writing expert. Rather, in the revision petition, respondent No.1 introduced report of another hand writing expert dated 20.11.2015 which was not in existence, even at the time when the criminal complaint was dismissed. Further, no separate application was filed by the complainant to place the report of document expert dated 20.11.2015 on the record of the revisional Court. Furthermore, this aspect was not taken into consideration by the revisional Court while passing the impugned order dated 12.01.2017 (Annexure P-1). In the given circumstances, it is not clear as to how the revisional Court while remanding back the complaint case gave direction to the Court of Illaqa Magistrate to pass a fresh speaking order after discussing and



appreciating the report submitted by hand writing expert Dr. Jassy Anand, in the absence of any permission being sought by the complainant to place the said report on the judicial file of the revisional Court.

13. In the light of the above discussion, the impugned order Annexure P-1 is not legally sustainable and deserves to be set aside.

14. Consequently, the present petition is hereby allowed and the impugned order dated 12.01.2017 (Annexure P-1) passed by the Court of Additional Sessions Judge, Jind, is set aside with direction to the said Court to decide the matter afresh in accordance with law, being not oblivious of the fact that the report of hand writing expert which is placed on record of revision petition, came into existence after the dismissal of the criminal complaint by the Court of Illaqa Magistrate vide order dated 03.01.2014.

15. The parties are directed to appear before the revisional Court concerned at Jind on 18.11.2024.

25.10.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**