



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

CRM-656-2023 in/and

CRM-A-14-2023

Date of Decision: November 13, 2024,

Avtar Singh

... Applicant/Appellant

Versus

Dr. Saroop Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vardaan Sharma, Advocate for
Mr. Ghulam Nabi Malik, Advocate
for the applicant.

DEEPAK GUPTA, J.

CRM-656-2023:

This is an application to condone the delay of 65 days in
filing the leave to appeal.

Heard.

For the reasons as mentioned in the application, supported by
an affidavit, the delay of 65 days in filing the application for grant of
leave to appeal, is hereby condoned.

The application stands disposed of.

CRM-A-14-2023:

Applicant is aggrieved of order dated 24.01.2022 passed by learned trial Court, whereby respondent has been acquitted of the charges under Sections 420, 467 and 471 IPC in the complaint filed by him (appellant).

2. As per version of the appellant (*complainant before the trial Court*), he was facing trial in case FIR No.33 dated 13.07.2008 registered at Police Station Garhdiwala, District Hoshiarpur under Sections 323, 324, 452, 148 and 149 IPC, in which respondent- Dr. Saroop Singh had appeared as a prosecution witness, so as to prove medico-legal reports of injured Sandeep Kumar. As per the affidavit of respondent, MLR of Sandeep Kumar was lost and missing report in this regard was registered. However, respondent - Dr. Saroop Singh had supplied attested copy of the MLR to the complainant and had also provided a copy of MLR to the police officials. It was found that the MLR provided to the complainant and copy of MLR provided to the police officials were bearing different serial and page numbers and there were lot of cuttings.

3. With above allegations, complaint was filed before learned Judicial Magistrate 1st Class, Dasuya to prosecute the respondent as an accused. After recording preliminary evidence, the respondent was summoned to face trial under Sections 420, 467 and 471 IPC. Pre-charge evidence produced by complainant- appellant was taken on record and on the basis of *prima facie* material, respondent was charged under Sections 420, 467 and 472 IPC, to which he pleaded not guilty and claimed trial. After conclusion of the trial, learned trial Court found that complainant-appellant had failed to prove any of the charges and as such, recorded

acquittal of respondent by way of the impugned order.

4. It is contended by learned counsel for appellant that learned trial Court ignored the testimony of CW4 - Dr. Gurdeep Singh, who during departmental proceedings against the respondent had found him guilty. Alterations made by respondent in the MLRs pertaining to Sandeep Kumar and Jagroop were ignored by the trial Court and wrongly held to be a clerical mistake. It is further argued that respondent being a public servant, was not expected to carry out any alteration in the MLRs prepared by him in his capacity as a public servant and so, there was no requirement of obtaining any sanction under Section 197 Cr.P.C. With these submissions, prayer is made for setting aside acquittal of the respondent.

5. We have considered submissions of learned counsel for the appellant and have appraised the record with his able assistance.

6. It is noticed that during trial, original MLR register containing the MLRs of Sandeep Kumar and Jagroop were produced in Court and true copies thereof were placed on record as Ex.D-3. It was found by learned trial court that MLR of Sandeep Kumar bearing No.SS/93/2008 was having serial No.15. MLR of Jagroop Singh bearing No.SS/95/2008 was having serial No.16. Same serial numbers i.e. 15 & 16 had been assigned to MLRs of Jagjeet Singh and Atma Singh. It was then noticed by the trial Court that though as per main grievance of the complainant, alterations had been made in the MLRs of Sandeep Kumar and Jagroop Singh, but in fact it was clear on perusal of the record that except the change of serial numbers of MLRs, there was no other mistake or tampering in any of the MLRs pertaining to Sandeep Kumar and

Jagroop Singh. Injury chart of both copies of the MLRs i.e. one obtained by the appellant – complainant through RTI and the other provided to the police were found to be same with no tampering.

7. Learned trial Court further noticed that in the MLR Register, there is one original page and three counter-foil pages of the same serial number. Normally original serial number of the MLR Register is filled by the duty doctor in his own handwriting and impression thereof is carried on the counter-foils with the help of a carbon paper. The original MLR remains in the register, whereas one carbon copy is sent to the police to take action as per law. The trial Court noticed further that in this case, serial number one on the MLR was filled by respondent - Dr. Saroop Singh in his own writing and three carbon copies were prepared with the help of carbon paper. The MLR register (Ex.DW-3) revealed further that first three MLRs at serial nos.1 to 3 were correctly filled at proper serial number, having one original page and three counter-foils, but at the time of recording the MLR at serial no.4 pertaining to one Mandeep Singh, the duty doctor wrongly recorded the same serial No.4 in the original MLR of Jaswinder Singh and it is because of this clerical mistake that serial numbers were overlapping in all the subsequent MLRs. Learned trial Court noticed that there was overlapping of serial number in the register not only in the MLRs of Sandeep Kumar and Jagroop Singh, but in the MLRs of other patients also because of the aforesaid reason.

8. In the face of above said findings of fact recorded by learned trial Court based upon proper appreciation of evidence, learned counsel for the appellant is unable to convince this Court as to how any of the ingredients of ‘cheating’ so as to constitute the offence under Section 420

IPC or that of 'forgery' under Section 467 IPC are made out.

9. Apart from above, it will not be out of place to be mention that in the FIR No.33 dated 13.07.2008, in which respondent had appeared as prosecution witness to prove the MLR of injured, conviction of the accused challaned therein was recorded by the trial Court on 18.08.2017. Later on, the convicts filed CRM-M-12582-2023 (O&M) before this Court and vide order dated 17.07.2023, the FIR along with all the consequent proceedings including conviction were quashed by a Single Bench of this Court on the basis of compromise between the parties.

10. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record is ignored unjustifiably by the trial Court. Reference in this regard can be made to judgment of Hon'ble the Supreme Court in '**Mahamadkhan Nathekhan vs. State of Gujarat**' 2014 (14) SCC 589.

11. Thus in the facts and circumstances of the present case, the trial Court has rightly reached at the conclusion that prosecution has failed to prove its case against the accused beyond the shadow of reasonable doubt.

12. Learned counsel for the appellant was unable to point out any illegality, infirmity or perversity in the impugned decision dated 23.11.2023 which calls for interference.

13. No other argument was raised.
14. In view of the above, leave to appeal against acquittal of respondent is declined.
15. Pending application(s), if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

(LISA GILL)
JUDGE

November 13, 2024
sarita/sanjay khan

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No