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

**CRA-D-671-DBA-2004
Date of Reserve:10.11.2025
Date of Decision: 26.11.2025**

State of Punjab …Petitioner

Vs.

Raghbir Singh …Respondent

**Coram : Hon'ble Mr. Justice N.S.Shekhawat
Hon'ble Ms. Justice Sukhvinder Kaur**

Present: Mr. M.S. Bajwa, DAG, Punjab
for the appellant-State.

Mr. T.S Chauhan, Advocate
Mr. Karanpreet Singh, Advocate and
Mr. Som Nath Sood, Advocate
for the respondent.

Mr. Nayandeep Rana, Advocate
for the respondent-Amicus Curiae.

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N.S.Shekhawat J.

1. Challenging the legality of the judgment dated 14.01.2004, passed by the Special Judge, Fatehgarh Sahib, the State of Punjab has filed the present appeal before this Court,whereby, the respondent was ordered to be acquitted of the charge.

2. The FIR Ex.PC was registered in the present case on the basis of one ruqa received from Harjap Singh, DSP, Vigilance Bureau Unit, Fatehgarh Sahib and the said FIR has been reproduced below:-

> "*At this time one ruqa from Sh. Harjap Singh DSP V.B.Unit Fatehgarh Sahib received through Ct. Harminder Singh No. 9/478 for registration of the case the contents of which are that*

the information is received by SHO, P.S. Patiala Vigilance Bureau from secret informer that Raghbir Singh son of Jarnail Singh resident of village Marwa, Tehsil Bassi Pathana, District Fatehgarh Sahib remained posted from 11.4.1995 to 17.4.1995 as salesman in Kotla C.A, S.S Sabha, District Fatehgarh Sahib. According to him, in stock fertilizer register, Harchetan Singh Rs. 1504/-, Labh Singh Rs. 171/-, Arjan Singh Rs. 479/-, Ajmer Singh Rs. 513/-, Amarjit Kaur Rs. 4482/-, Dharam Singh Rs.2300/-, Sucha Singh Rs. 1992/-, Ujaggar Singh Rs. 2490/-, Gurdev Singh Rs.4150/-, Surjit Singh Rs.830/-, Rulda Singh Rs. 1992/- Mehar Singh Rs.830/-, Piara Singh Rs.830/-, Labh Singh Rs. 1660/-, Gurmail Singh Rs.2276/- respectively after showing the sale of fertilizer and after debiting the stock from stock register, the above mentioned persons not deposited the different cheques numbers received by him in the bank and this total amount Rs. 37998/- is used for his personal work. This amount is pending towards him. The amount of Rs.33,857.33 paise belonging to the concerned society retained by him and is not deposited in the concerned bank till today. He embezzled this amount. The sale of fertilizer cheques amounting to Rs. 37,998/- was not deposited. Thus, he has committed the offence under section 409,467,468,471 of IPC and 13(1) (C) read with 13(2)88 PC Act. After registration of the case in the above mentioned sections, its number be intimated. Ruqa is being sent through Ct. Harminder Singh No.9/478. I am busy in investigation. Sd/- Harjap Singh Deputy Superintendent of Police, Fatehgarh Sahib dated 28.7.1998, at about 4:30 PM. On receipt, the above said case for the above said offence against the above said accused was registered and the file has been completed. Copy of FIR alongwith ruqa is being sent through coming C Harminder Singh No 9/478 to the spot for handing over the said to Sh. Harjap Singh, DSP, V.B. Unit Fatehgarh Sahib for investigation. Special reports are being sent through Ct. Darshanjit Singh No. 486 to Higher Officers.

DDR No.13 at 5.45 PM

Sd-Gurbhej Singh, MHC
P.S V.B. Patiala Range,
Patiala, Dated 28.07.1998

3. After the registration of the FIR, the investigation of the case was entrusted to Kashmir Singh, D.S.P, Fatehgarh Sahib, who collected the records of the society by way of separate memos. The sale register as well as stock register of the fertilizer were also taken into possession by the police.

4. After completion of the investigation, the respondent was challaned by Kashmir Singh, D.S.P, Fatehgarh Sahib and the final report was presented before the competent Court of law.

5. After taking into consideration the challan and the other material appendid with it, the Trial Court ordered framing of the charge under Sections 409,467,468,471 of IPC read with Section 13 (1) (c) of the Prevention of Corruption Act against the respondent.

6. To prove the charge against the respondent, the prosecution examined 17 witnesses i.e. PW-1 Harjap Singh, DSP Vigilance, PW-2 Mehar Singh, PW-3 Inderjit Kaur, Head Clerk, PW-4 Piara Singh, PW-5 Gurcharan Kaur, PW-6 Ajmer Singh, PW-7 Dharam Singh, PW-8, Labh Singh, PW-9 Arjan Singh, PW-10 HC Gurbhej Singh, PW-11 Nabha Singh & Surjit Singh, PW-12 Gurmel Singh, PW-13 DSP Kashmir Singh Bhinder, PW-14 Amarjit Kaur, PW-15 HC Swaran Singh, PW-16 Kehar Singh and PW-17 Buta Singh, Senior Assistant.

7. After the completion of the prosecution evidence, the entire incriminating evidence was put to the respondent in the shape of statement under Section 313 Cr.P.C, but he stated that he had been falsely involved in the

present case.

8. In defence, the accused/respondent examined himself as DW-1 and stated that the cheques Ex.D1 to Ex.D7 were issued by Piara Singh, Labh Singh, Mehar Singh, Rulda Singh, Surjit Singh, Amarjit Kaur and other persons and the cheques were signed by the persons, who had purchased fertilizers from the society. He was working as a salesman of the society and had issued the slips/receipts to the abovesaid members of the societies, which were exhibited as Ex.D8 to Ex.D17. He went to the Co-operative Bank to deposit the abovesaid cheques in the name of the societies, but the bank refused to accept the cheques as he was already suspended by the society due to party faction in the village. He further stated that he had produced the cheques before the Vigilance Authority at the time of enquiry, however, they also refused to consider the cheques and implicated him in the false case. He had also shown the receipts/bills to the higher authorities, but again no heed was paid to the same. He further submitted that cheques and receipts were signed by the members of the Society to whom fertilizers were issued by him, being the sales man.

9. Learned State counsel has vehemently argued that the respondent/accused was posted as a Salesman in Kotla Co-operative Agricultural Service Society at Fatehgarh Sahib and had embezzled an amount of Rs.71,855.33 paise. As per the record, the outstanding balance towards 18 members amounted to Rs.37,998/-. The respondent had obtained the cheques for the outstanding amount from the members of the society, but failed to deposit the same in the account of the socieity and thus, had misappropriated an amount of Rs.33,857.33 paise, which was given to him in cash. Even, while

acquitting the accused/respondent, the Trial Court had completely overlooked the testimonies of various prosecution witnesses.

10. On the other hand, learned counsel for the respondent as well as learned Amicus Curiae have vehemently opposed the submissions made by learned State counsel and submitted that the Trial Court had correctly appreciated the evidence in the light of the settled cannons of law. Learned counsel further submitted that the impugned jugment was based on sound reasons and was liable to be uphled by this Court.

11. We have heard learned counsel for the parties and perused the record carefully.

12. In the present case, the respondent/accused was charge-sheeted by the Trial Court for commiting the offence under Sections 409,467,468,471 of IPC read with Section 13 (1) (c) of the Prevention of Corruption Act, however, we agree with the Trial Court that the basic ingredients of the alleged offences were completely missing in the present case. Even, it has been alleged that the respondent had mis-appropriated the funds of the society, which were entrusted to him. However, the prosecution had utterly failed to prove that there was any entrustment of any sort of funds to the respondent, relating to the society. It is an admitted case of PW-7, Dharam Singh, PW-9 Arjan Singh and PW-10 HC, Gurbhej Singh that the records of the society had to be maintained by the Secretary of the society. Even, PW-17, Buta Singh, Senior Assistant admitted that the affairs of the society were entrused to the Secretary of the Society and the respondent was admittedly never appointed as Secretary. Apart from that, the respondent himself appeared as DW-1 and clearly stated that cheques Ex.D1 to D-7 were part of the record, which were in the name of the

socieity and had been admittedly signed by various prosecution witnesses. Apart from that, the bills were also exhibited as Ex. D-8 to Ex.D17 and the same were also signed by the members of the Society. Consequently, it can never be stated that respondent was beneficiary of the amount, which was allegedly mis-appropriated. Rather, it is apparent from the record that the cheques were issued in the name of the Society and the respondent could not have mis-appropriated the amount. Apart from that, the prosecution also did not lead any evidence to show that any amount was ever transferred in the account of the respondent or he had mis-appropriated the amount in question. Still further, there was no evidence to show that any document was forged and fabricated or even any bribe was paid or accepted by the respondent. Still further, even though the respondent was part of the society, being a salesman, but as per the prosecution version, the society was being run by the Secretary and a Secretary namely Swaran Singh was also suspended for embezzlement of funds. Even, it was never duty of the respondent to maintain the accounts of the society. However, it appears that the prosecution was ordered only against the present respondent after a delay of more than three years.

13. It has been held by the Hon'ble Supreme Court in the matter of **"Bhaskarrao and others Vs. State of Maharashtra", 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

> *"14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in*

Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974 -

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappreciation, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

14. 15. In **Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867,** this Court observed:

"This Court has repeatedly laid down that the mere fact that a view

other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

15. As an upshot of the above discussion, the present appeal fails and is accordingly ordered to be dismissed.

16. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

17. The Trial Court record be sent back.

(N.S.SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

26.11.2025
hitesh

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