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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.REV.P. 1189/2019

SHIV CHARAN @ KALLI .....Petitioner

Through: Ms. Astha, Advocate (DHCLSC) with Ms. Megha Singh, Advocate

versus

STATE & ORS. .....Respondents

Through: Mr. Ajay Vikram Singh, APP for the State with Insp. Amit Pratap, PS EOW
Mr. Tushar Rohmetda, Mr. Anubhav Sharma, Advocates for R-2, 4 & 5

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **28.07.2025**

1. The present criminal revision petition filed under Sections 397, 401 read with 482 of the Code of Criminal Procedure, 1973[1] is directed against order dated 17th September, 2019, passed by ASJ-02, North District, Rohini Courts, Delhi in Criminal Appeal No. 59/2019 titled ***Shiv Charan @ Kalli v. State & Ors.*** By the impugned order, the Appellate Court upheld the order dated 8th January, 2019, passed by MM-01, North District, Rohini Courts, Delhi in the proceedings arising from case FIR No. 244/1999 of P.S. Narela, Delhi, registered under Sections 419, 420 and 120B of IPC.

2. The facts of the case, in brief, are as follows:

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[1] "CrPC"

2.1. On 17th July, 1999, a complaint was lodged by Shiv Charan @ Kalli (the Complainant/Petitioner), which culminated in registration of FIR No. 244/1999 under Sections 419, 420, and 120B of IPC. In his complaint, the Petitioner alleged that while his late father, Kartar Singh, was contesting a case for *Bhumidhari* rights, Jitender Rana and Virender Singh (Respondent Nos. 2 and 3), who had access to all relevant case details, used to accompany him. As Kartar Singh was unwell, Jitender offered to assist in securing *Bhumidhari* rights for the land, following which the land could be sold. Allegedly, Kartar Singh agreed to sell the land to Jitender for INR 1,50,000 per acre.

2.2. The Petitioner claimed that a General Power of Attorney[2] was executed in favour of Jitender, and a bank account in Kartar Singh's name was opened. However, the cheque book of the said account was retained by Jitender and Virender after obtaining Kartar Singh's signatures. The Petitioner further alleged that these individuals continued visiting their house, repeatedly obtaining Kartar Singh's signatures under the pretext of facilitating the *Bhumidhari* process. Eventually, they stopped coming altogether.

2.3. In 1998, during a visit by the *Patwari* to their village, the Petitioner and his father inquired about the status of the land. They were informed that Kartar Singh had become the *Bhumidhar*; however, the land had already been acquired, and they could now collect their compensation cheque. Upon visiting the SDM's office, they were informed that Kartar Singh had already received the said cheque. When they raised objections, they were advised to verify transactions through the bank account. On checking, they discovered that although the cheque had been deposited into Kartar Singh's account, the entire amount had been transferred the very next day to the accounts of Jitender Rana and Aman Singh (Respondent No. 4), through cheques purportedly signed by Kartar Singh.

2.4. The Petitioner alleged that Jitender Rana, Virender Singh, Aman Singh, and Vijay Singh (Respondent No. 5), who was the bank manager and also Jitender's uncle, had conspired to cheat Kartar Singh. By impersonation and forging his signatures, they allegedly siphoned off the entire compensation amount. It was further claimed that although Kartar Singh owned only 16 Bighas and 8 Biswas of land, these individuals fraudulently secured compensation for 19 Bighas and 8 Biswas by fabricating the records.

2.5. On 11th August, 1999, SI S.M. Sharma of the Anti-Forgery Section (EOW), Crime Branch, registered the FIR at P.S. Narela (Crime Branch) and commenced investigation. During the course of investigation, documents were seized from Kartar Singh's bank, the Land Acquisition Collector's office, revenue authorities, and the office of the Sub-Registrar. The accused persons were arrested, their specimen signatures were taken, and relevant documents were sent to FSL for examination. Upon completion of the investigation, the Investigating Officer[3] filed a charge sheet against Jitender, Aman, and Virender for offences under Sections 419, 420, 467, 468, 471, and 120B of IPC.

2.6. After taking cognizance, the Magistrate issued summons to the accused persons, including Vijay Singh, who was cited as a witness. Copies

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[2] "GPA"
[3] "IO"

of the charge sheet were supplied. On 16th November, 2002, charges were framed against the accused under Sections 419 and 420 read with Section 120B of IPC, while they were discharged from the remaining offences. The accused pleaded not guilty and claimed trial. The prosecution, in support of its case, examined 12 witnesses.

2.7. Based on the evidence led, the MM-01, North District, Rohini Courts, Delhi, by judgment dated 8th January, 2019, acquitted the Respondents of the offences under Sections 419 and 420 read with Section 120B IPC. Aggrieved by the acquittal, the Petitioner as a Complainant preferred an appeal before the Appellate Court. However, the said appeal was dismissed by the impugned order, thereby affirming the order of acquittal.

3. The Petitioner's counsel contends that both the Trial Court and the Appellate Court have proceeded erroneously and failed to properly appreciate the evidence adduced during trial. He submits that the Petitioner, through his testimony, proved the allegations made in the complaint and specifically detailed the role of each accused at the relevant time. The Trial Court failed to consider that the Petitioner had narrated the entire sequence of events accurately, and that there was no reason to discard or doubt his testimony merely because he is the son of the person allegedly defrauded.

4. He further submits that the Trial Court overlooked the fact that the FSL Report was duly proved by PW1, a Senior Scientific Officer. There was no reason to disbelieve PW1, whose testimony remained consistent even during cross-examination. Moreover, the onus to rebut the FSL Report lay upon the accused persons, which they failed to discharge.

5. The Petitioner additionally argues that the Trial Court failed to appreciate that the accused had withdrawn the compensation amount by

forging the signature of his late father on the cheque, which is apparent from the FSL Report. The Trial Court erred in concluding that the Investigating Officer had obtained the specimen signatures of Kartar Singh even before the filing of the complaint. It is emphasized that both the Trial Court and the Appellate Court failed to properly evaluate the facts and evidence on record.

6. According to the Petitioner, the accused persons had conspired amongst themselves to fraudulently withdraw the entire amount of land acquisition compensation by forging cheques and using a forged voucher allegedly issued by the concerned authority. Therefore, it is urged, the offences under Sections 419 and 420 read with Section 120B of IPC stood established and duly proved by evidence.

7. The Court has considered the aforenoted contentions. At the outset, it must be emphasized that this Court is exercising its revisional jurisdiction against an order of acquittal confirmed in appeal by the Sessions Court. In light of the same, it becomes pertinent to highlight the circumscribed scope of the Court's revisional jurisdiction. The Supreme Court in ***New India Assurance Co. Ltd. v. Krishna Kumar Pandey***[4], highlighted that the purpose of the revisional power is to correct a patent defect or an error of jurisdiction of law. Such revisional powers can only be exercised in cases where there is perversity or arbitrariness or miscarriage of justice. The High Court, in revisional jurisdiction, does not sit as a court of appeal to re-appreciate the evidence and evaluate the findings of the lower courts. In ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri***[5], the Supreme Court underscored the scope of revisional jurisdiction of the High Court, to

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[4] 2019 SCC OnLine SC 1786.

[5] (1999) 2 SCC 452.

the following effect:

> *"5. ……… In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice…………."*

8. Bearing in mind the limited scope of revisional jurisdiction, the Court now proceed to examine whether the reasoning of the Appellate Court, declining to interfere with an acquittal, was justified.

9. The relevant portion of the impugned order reads as under:

> *"8. Regarding the first contention the Ld. Counsel for the appellant submits that the handwriting report Ex. PW1/D has been wrongly rejected as there were no basis for rejecting the same, as the testimony of PW1 is trustworthy and there is no reason to discard the same.*
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> *As per the initial complaint Ex. PW6/A, which is dated 17.07.99 and on the basis of which FIR was registered on 11.08.99 it was mentioned in the said complaint that the father of the complainant Shiv Charan namely Kartar Singh died on 03.07.99, whereas as per the specimen signatures of the deceased Kartar Singh, Ex. PW1/B1 to B6 the same is stated to have been taken on 02.06.99, prior to his death and even prior to the registration of the FIR.*
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> *The specimen thumb impressions of the deceased Kartar Singh were also similarly taken on 02.06.99, prior to the death of the deceased Kartar Singh and prior to the initiation of the investigation on 11.08.99. Since the specimen signatures and thumb impressions of the deceased are pre-dated prior to the commencement of the investigation and the same could have only been taken, after the registration of the FIR and not prior to the same.*
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> *9. The IO PW12 in his cross-examination has admitted that he did not knew any of the party / person concerning this case prior to filing of the complaint Ex. PW6/A on 17.07.99 and after receiving of the complaint, he conducted preliminary inquiry till registration of the FIR i.e. on 11.08.99.*

It is not clear if the complaint itself was received on 17.07.99, how IO could have obtained the specimen handwriting of the deceased Kartar Singh on 02.06.99. Further the observations made by the Ld. Trial Court in para 15 are reproduced once again:

15. The report of specimen signatures and hand writing is proved by prosecution as Ex.Pw1/D. The findings of handwriting/signatures expert records that the sample signatures and admitted signatures of Kartar Singh do not match with signatures in cheques Ex.Pw1/A4 and A6, sample signatures card Ex.pw1/A10, registered GPA in favour of Jitender Rana Ex.Pw1/A11 and account opening form of Kartar Singh Ex.Pw1/A12. However, these signatures matched with signatures of Kartar Singh in Ex.PW1/A2 and Ex.PW1/A3 i.e surety bond and affidavit of Kartar Singh filed for taking the award money. There is no finding on signature Q1 which is in revenue receipt of award money.

As observed by Ld. Trial Court, this finding suggests that the deceased Kartar Singh did not execute any GPA in favour of accused Jitender Rana neither he opened bank account, therefore, his signatures on the account opening form and specimen signature does not match with the admitted signatures of Kartar, Singh, which would mean that both the bank accounts as well as GPA are forged.

10. However, as per the testimony of PW6 complainant Shiv Charan, who has deposed in his examination in chief that the GPA was executed by his father in favour of Jitender and accused Virender and they also got his signatures on blank documents. They also took his father to the bank, opened his account in the said bank, they kept the pass book / cheque book with them.

He was subjected to cross-examination. In his cross-examination, he has deposed that deal between his father and accused Jitender for land @ 1.5 lakhs per acre took place in his presence. He was also having knowledge that two cheques of Rs. 50,000/- each had been received in the account of his father from the account of Jitender in lieu of selling land. They had not raised any objection regarding keeping of cheque book by accused persons.

11. Therefore, this version of PW6 does not gel with the report of the handwriting expert PW1 as Ex. PW1/B and is contradictory to the same. As rightly observed by Ld. Trial Court, at one place the signatures of the deceased Kartar Singh in admitted documents are matching with the questioned signatures and at other places they are not matching.

Further, the same is contrary to the case propounded by PW6 complainant as discussed above and there is a glaring irregularity in the collection of the specimen signatures of the deceased Kartar Singh, which are predated prior to the commencement of the *investigation or even receipt of the complaint, which has not been explained by the prosecution, how this could have been done, especially when the IO was not conversant with the complainant or the accused party prior to 17.07.99.*

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13. The probative force of the testimonial deposition of PW6 complainant Shiv Charan has been greatly dented by the above answers given by him in his cross-examination, as he had even denied his signatures on the admitted documents including affidavits, compromise deeds filed before the Hon'ble High Court and also on the application u/S. 320 CrPC for compounding moved before the court of then Ld. MM.

He even denied his signatures on the vakalatnama and had the audacity of denying the fact that he had appeared in the Hon'ble High Court on 13.02.2007 in connection with the quashing of the present case. Despite being shown the said order, he denied that he never went to the Hon'ble High Court on the said date with regard to the quashing.

He was also put the application u/S. 320 CrPC moved before the court of Ld. MM, but he stated that he cannot admit or deny due to lapse of time, whether he appeared in the said case and told the court that he had compromised the matter for a sum of Rs. 15 Lakhs. Even his demeanor was also recorded by the Ld. Trial Court by observing :

Court observation : The witness is thinking over on all the questions put to him as well as the documents and trying to evade the answers to the same. He is also taking long pause.

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15. With regard to the GPA Ex. PW1/A11, which has been duly registered with the office of Sub Registrar, the IO PW12 in his cross-examination had admitted that complainant never challenged GPA by filing a suit for cancellation of GPA or by moving an application before the sub registrar. He further deposed that as per his investigations, application Ex. PW1/C8 (dated 20.01.1999) for collecting compensation was moved by someone impersonating Kartar Singh.

He also admitted it as correct that he had filed Ex. PW1/C8 as document which bears the admitted signatures of Kartar Singh. As per his investigation application Ex. PW1/G9 was moved by Kartar Singh himself and it bears his signatures only.

16. Therefore, the IO also had admitted in his cross-examination that he had sent the application for collecting the compensation, as *admitted document of deceased Kartar Singh thereby further denting the case of the prosecution that the compensation had been collected by the accused persons in a surreptitious manner. Further such like GPA and other documents in the shape of agreement of sell and receipt were very much vogue in those days in Delhi to avoid the payment of stamp duty. Therefore, there was nothing unnatural in execution of the said general power of attorney in favour of one of the accused during those days.*

17. Even otherwise, it is the case of prosecution itself that the said power of attorney had been executed by the deceased Kartar Singh though by deception, therefore, though the said General: Power of Attorney may not have conveyed any title in favour of the person for which it was executed, as the same was only an agency agreement to act on behalf of the deceased Kartar Singh.

However, till date no suit seeking cancellation of the said power of attorney had been filed on the ground of undue influence or fraud. In any case, the trial in present case was only confined to the extent i.e. to find out the culpability of the accused persons and deciding the title was beyond the scope of the said trial.

18. From the documents seized vide seizure memo Ex. PW3/A and seized cheques Ex. PW1/G1 to 010 and other documents which are Ex. PW7/A to Ex. PW7/G regarding the compensation and also the document Ex. PW1/A1 to A3 and other bank documents, which are Ex. PW1/A8 to A12 and other documents pertaining to the bank account of Delhi State Cooperative Bank belonging to the deceased Kartar Singh and that of accused Jitender Rana and the bank statement of account of deceased Kartar Singh Ex. PW8/G and that of accused persons Ex. PW8/H, it appears that the accused persons may have taken advantage of the illiteracy of the deceased Kartar Singh by alluring him into executing certain documents in the shape of general power of attorney, bank account under misconception of the actual amount of the property in question or the compensation, which he was going to receive from his compensation case with the Land Acquisition Collector or that he may have required money instantaneously for his needs.

But the fact remains that neither the deceased Kartar Singh nor any of his legal heirs had challenged the GPA or any other document in civil court by filing of suit for cancellation of GPA or by moving an appropriate application before the concerned Sub Registrar seeking cancellation of the said GPA.

19. The undue haste in which the cheque of Rs. 54 Lakhs received from Land Acquisition Collector was deposited into the account of deceased Kartar Singh on 30.07.99 and with utmost haste by which the said money was transferred into the account of Jitender Rana and into the another account of Rana Building Material Suppliers *proprietor Aman Singh within a span of 1-2 days raises some sort of suspicion regarding the culpability of the accused persons having dishonestly inducing the deceased Kartar Singh.*

However, it is settled proposition of criminal law that the prosecution has to prove its case beyond reasonable doubt, mere suspicion or strong suspicion is not enough to convict the accused persons, as there is a lot of distance to be traversed between the yardstick of strong suspicion to the destination of proof beyond reasonable doubt, which the prosecution has failed to reach, in the present case." [SIC]

10. As can be seen from the above extract, the Appellate Court has meticulously examined the evidence which was duly analysed by the Trial Court. The Appellate Court, while going through the handwriting expert report and the specimen signatures allegedly taken from the deceased Kartar Singh, noticed a glaring and unexplained anomaly that the that the specimen signatures and thumb impressions are stated to have been obtained on 02nd June, 1999, well before the registration of the FIR on 11th August, 1999 and even prior to the filing of the initial complaint on 17th July, 1999. The Investigating Officer (PW12) himself admitted during cross-examination that he had no knowledge of the parties involved prior to the complaint. Thus, the prosecution has failed to offer any plausible explanation as to how specimen signatures of a deceased person could have been procured at a time when the investigation had not even commenced. The Appellate Court rightly noted that such procedural irregularities cast a doubt on the authenticity and evidentiary value of the handwriting expert report (Ex. PW1/D), which is premised on these questionable specimen signatures.

11. This Court finds no fault with the reasoning adopted by the Appellate Court in discrediting the testimony of PW6 (the Petitioner), and agrees that its conclusions are firmly grounded in the well-established principles

governing appreciation of witness credibility. It is settled that the testimony of a witness must be consistent, trustworthy, and withstand the test of cross-examination to inspire confidence. PW6, who is the Complainant, and the prime witness, not only gave contradictory statements during his cross-examination but also persistently evaded direct answers. He denied his own signatures on multiple admitted documents, including affidavits, compromise deeds, and applications under Section 320 of CrPC filed before judicial forums. The demeanor of PW6, as recorded by the Trial Court, marked by long pauses, evasiveness, and deliberate attempts to withhold straightforward responses, further undermines his credibility.

12. Indeed, as held by the Appellate Court, the GPA was duly registered with the office of the Sub-Registrar. At no stage, the Complainant or the legal heirs of the deceased Kartar took an action seeking its cancellation on grounds of fraud, coercion, or undue influence. Even the Investigating Officer (PW12), during his cross-examination, conceded that no challenge had ever been made to the GPA before any competent authority. Moreover, he himself treated certain documents bearing the signatures of Kartar Singh, previously alleged to be forged, as admitted documents during the course of investigation. This clearly dilutes the prosecution's claim of forgery and undermines the assertion that the accused had impersonated or misrepresented the deceased.

13. In the above facts, the Appellate Court gave due consideration to the possibility that the accused may have taken advantage of the deceased Kartar Singh's illiteracy and lured him into executing documents related to a bank account and the GPA under a misconception of the compensation amount he was entitled to receive. However, despite such a possibility, the

Court rightly concluded that such a scenario, while questionable, does not satisfy the threshold required for establishing criminal liability. The absence of any contemporaneous objection or legal action by Kartar Singh, or his heirs, undermines the prosecution's narrative.

14. It is noted that the sum of INR 54 lakhs, purportedly received by the deceased Kartar Singh as compensation, was transferred into the accounts of the accused within a short span of 1-2 days. While such transactions may appear suspicious, however, mere suspicion, however strong, cannot form the basis for a conviction. The settled position in criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt. Suspicion, no matter how grave or plausible, cannot substitute the standard of legal proof required to prove guilt. In the present case, there is no conclusive evidence demonstrating that the accused dishonestly induced the deceased to part with his compensation money through deceit or coercion. The prosecution has not led any reliable direct evidence to show that the transactions were carried out without the deceased's consent or through manipulation of documents. On the contrary, as already discussed, no contemporaneous complaint or legal action was initiated by the deceased or his legal heirs seeking cancellation of the GPA or recovery of the alleged misappropriated funds. Therefore, while the swiftness of movement of the funds may raise eyebrows, it falls short of establishing criminal intent in a manner that satisfies the threshold of "*proof beyond reasonable doubt*".

15. For the foregoing reasons, the impugned decision of the Appellate Court confirming the order of acquittal is founded on the well-established principle that the prosecution must prove its case beyond reasonable doubt and mere suspicion or a strong suspicion is not enough for conviction.

16. In light of the above, the findings of the Appellate Court, as well as the Trial Court, are rooted in proper administration of evidence and call for no interference.

17. Accordingly, the present petition is dismissed along with pending application(s), if any.

SANJEEV NARULA, J

JULY 28, 2025/ab