



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRR-2535-2016 (O&M)

Date of decision: 20.04.2026

Kalawati

...Petitioner(s)

VERSUS

State of Haryana and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Raman Chawla, Advocate for the petitioner(s).

Mr. Paras Talwar, Sr. DAG Haryana.

Ms. Vidusi Singh, Advocate for respondent No.2
(Legal Aid Counsel).

VINOD S. BHARDWAJ, J. (Oral)

CRM-21532-2016

The instant application has been filed for condonation of delay of 56 days in filing the accompanying criminal revision petition.

For the reasons mentioned therein, the application is allowed. Delay of 56 days in filing the accompanying criminal revision petition is hereby condoned.

CRM-21533-2016

Application is allowed as prayed for subject to all just exceptions.

Main case:

1. The instant revision petition has been filed against the judgment dated 19.08.2013 passed by the Sub-Divisional Judicial Magistrate, Siwani,

whereby the accused-respondent No.2 was acquitted, as well as the judgment dated 12.02.2016 of the Additional Sessions Judge, Bhiwani, whereby the appeal bearing No.147 of 2013/2015 dated 07.10.2013/19.11.2015 preferred against the aforesaid judgment of Sub-Divisional Judicial Magistrate, Siwani, has been dismissed.

2. Briefly summarised, the facts of the present case are that a complaint was preferred by complainant-Kalawati wife of Ram Niwas, resident of village Gurera, Tehsil Siwani, District Bhiwani under Section 156(3) Cr.P.C. whereupon an order was passed by the Sub-Divisional Judicial Magistrate, Siwani, resulting in registration of FIR bearing No.39 dated 28.02.2012 under Sections 206, 415, 417, 419, 420, 406, 506, 120-B of the Indian Penal Code, 1860 at Police Station Siwani, District Bhiwani. In the said complaint, petitioner-Kalawati had alleged that on 03.03.2011, the accused persons, i.e. Ashwani and Suman wife of Ashwani (respondent No.2 herein), came to her house in the presence of her husband and showed their willingness to sell their land measuring 13 kanals 1 marla situated at Dhani Ramjas. The complainant agreed to purchase the said land. On 04.03.2011, the accused/Ashwani Kumar and respondent No.2-Suman are alleged to have come to her house in the morning and submitted documents for verification of their ownership over the land in question. A sum of Rs.2.80 lakh was paid to the accused persons as full and final sale consideration qua the said land. The sale deed was to be executed on the same day. Accused No.1-Ashwani, along with respondent No.2-Suman got executed and registered the sale deed for the aforementioned land in favour of the petitioner vide sale deed bearing *vasika* No.2688 dated 04.03.2011.

By virtue thereof, the petitioner claims to have become the owner in possession of the aforesaid land. Thereafter, the husband of the petitioner met *Halqa Patwari* on 30.03.2011 after obtaining the sale deed from the office of Tehsildar, Siwani, for the sanction of mutation in their favour, however, *Patwari* informed that Ashwani had already transferred the said land by suffering a consent decree in favour of respondent No.2 alongwith their minor children and the mutation could not be sanctioned and entered in favour of the petitioner-complainant. Alleging that the accused, in collusion with each other and by hatching a conspiracy, cheated the complainant, the proceedings were initiated.

3. The Police investigated the matter and, upon completion of the investigation, a final report was filed under Section 173 Cr.P.C. against co-accused/Ashwani as well as respondent No.2-Suman. Copies of the challan were supplied to the accused persons free of cost as envisaged under Section 207 of Cr.P.C., and they were charge-sheeted for commission of offences punishable under Sections 420, 120-B and 506 of the Indian Penal Code, 1860, to which they pleaded not guilty and claimed trial.

4. To prove its case, the prosecution examined the following twelve witnesses:

<i>PW-1</i>	<i>Ram Niwas son of Amar Chand.</i>
<i>PW-2</i>	<i>Sombir, Registry Clerk.</i>
<i>PW-3</i>	<i>HC Satbir Singh.</i>
<i>PW-4</i>	<i>LC Birmati.</i>
<i>PW-5</i>	<i>Naresh Kumar Gupta, Civil Ahlmad.</i>
<i>PW-6</i>	<i>Kalawati (petitioner-complainant)</i>

<i>PW-7</i>	<i>Rajender Singh, Retired Sub-Tehsildar.</i>
<i>PW-8</i>	<i>Jagpal Singh, Kanungo.</i>
<i>PW-9</i>	<i>Birbal Singh, Patwari.</i>
<i>PW-10</i>	<i>SI Desraj.</i>
<i>PW-11</i>	<i>EASI Jitender Kumar.</i>
<i>PW-12</i>	<i>SI Dalbir Singh.</i>

The APP closed the prosecution evidence vide statement dated 08.07.2013.

5. The statements of the accused persons were recorded under Section 313 Cr.P.C. on 17.07.2013, wherein they pleaded innocence and alleged false implication by the Police.

6. Accused No.2-Suman tendered a copy of the order dated 19.03.2013, passed in Civil Suit No.203 of 2011 as Ex. D1. No other defence witness was examined, and both the accused closed their evidence vide separate statements recorded on 13.08.2013.

7. On hearing the respective parties, the Sub-Divisional Judicial Magistrate, Siwani, referred to the evidence led by the prosecution to prove its case and also examined the documentary evidence. It was noticed by the Sub-Divisional Judicial Magistrate that PW-5/Naresh Kumar Gupta, Civil Ahlmad of the Court, had brought the case file of Civil Suit No.284 of 2010 pertaining to the consent decree passed on 05.10.2010. It was noticed that the prosecution failed to prove the sale deed dated 04.03.2011 and also failed to establish the participation of respondent No.2-Suman in commission of the offence or that she had allured the husband of the complainant into parting with money for the execution of the sale deed for

the land in question. The trial Court accordingly convicted Ashwani, while acquitting respondent No.2-Suman of the charges framed against her.

8. Aggrieved thereof, the petitioner filed an appeal bearing No. CRA-147 of 2013/2015 before the Court of Sessions, and the same was dismissed by the Additional Sessions Judge, Bhiwani, vide judgment dated 12.02.2016 and the judgment dated 19.08.2013 passed by the Court of Sub-Divisional Judicial Magistrate, Siwani was affirmed. Hence, the present revision petition.

9. Learned counsel appearing on behalf of the petitioner has vehemently argued that both the Courts have failed to appreciate the consistent and harmonious testimony and deposition of the prosecution witnesses, resulting in establishing the case against both the accused. The very fact that the contention of the petitioner had been accepted while convicting Ashwani (husband of respondent No.2) proved beyond a reasonable doubt that the participation of respondent No.2 was also fully established. He contends that the sequence of events clearly shows that co-accused/Ashwani had earlier suffered a consent decree in favour of respondent No.2-Suman and their minor children on 05.10.2010 in Civil Suit No.284 of 2010 and thereafter, allured the husband of the petitioner into parting with a sum of Rs. 2.80 lakhs for the sale of the aforesaid land. The deceitful intent was thus fully established. It is thus contended that the judgments be set aside and respondent No.2 be also convicted and sentenced.

10. Since there was no representation on behalf of respondent No.2-accused, therefore, Ms. Vidushi Singh, Advocate, was appointed as a Legal

Aid Counsel to assist this Court on behalf of respondent No.2.

11. Learned Legal Aid Counsel vehemently contends that there is no error in the appreciation of the facts as well as the evidence by both the Courts. It is submitted that a perusal of the record clearly shows that the necessary ingredients for the commission of offence against respondent No.2-Suman are not made out. Consequently, the Sub-Divisional Judicial Magistrate acquitted respondent No.2. The Additional Sessions Judge, Bhiwani, later affirmed the said finding.

12. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition as well as the judgments under challenge with their able assistance.

13. Before proceeding further, it would be relevant to refer to the judgment dated 12.02.2016 passed by the Additional Sessions Judge, Bhiwani. The relevant extract thereof reads thus:-

“14. Before proceeding further, it is necessary to go through the necessary ingredients of sections 420, 506 and 120-B. To prove the offence under section 420 IPC, the following essential ingredients were required to be proved by the prosecution. These are:-

(i) There must be deception, i.e., the accused must have deceived someone;

(ii) That by the said deception, the accused must induce a person,

(a) to deliver any property, or

(b) to make, alter or destroy the whole or part of the

valuable security or anything which is signed or sealed and which is capable of being converted into a valuable property.

(iii) That the accused did so dishonestly.

15. *Further, to bring home the guilt of the accused under section 120-B, the prosecution was required to prove the following essential ingredients:-*

- (i) an agreement between two or more person;*
- (ii) the agreement should be to do or cause to be done some illegal act or some act which is not legal by illegal means, provided that where the agreement is other than one to commit an offence, the prosecution must further prove,*
- (iii) that some act besides the agreement was done by or more of the parties in pursuance of it.*

16. *Further, to prove the ingredients of criminal intimidation, the prosecution must prove the following essential ingredients:-*

- 1. *Threatening a person with any injury,*
 - (i)- to his person, reputation or property; or*
 - (ii)- to the person, or reputation of any one in whom that person is interested.*
- 2. *The threat must be with intent;*
 - (i)- to cause alarm to that person; or*
 - (ii) to cause that person to do any act which that person is legally entitled bound to do as the means or avoiding the*

execution of such threat; or

- (iii) *to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.*

17. *Learned counsel for the complainant has argued that accused Suman had intention from the very beginning to cheat the complainant that is why she had visited at the house of the complainant inducing her for the execution of the sale deed and infact had received an amount of Rs.2,80,000/-. On the other hand, these arguments were strongly rebutted on part of the accused that neither the said accused had ever visited at the house of the complainant nor she had ever cheated the complainant at any point of time. This Court has perused the sale deed Ex.PWI/A available on the case file executed by Ashwani Kumar son of Har Gobind in favour of the complainant. After perusal of the said document, this Court has found that accused Suman has nowhere signed or thumb marked on the said document. The name of the vendor has been shown as Ashwani Kumar whereas two witnesses are Dharampal Lambardar and Rajender Singh, whereas the signatures of the purchaser are also there who is the husband of the complainant. Even the copy of agreement to sell dated 4.3.2011 is also available on the case file, in that also, neither the thumb impressions nor signatures of accused Suman appeared anywhere. It is the specific allegation of the prosecution that accused Suman alongwith her husband Ashwani had visited at the house of the complainant and thus had cheated her by hatching a*

criminal conspiracy. Copy of mutation Ex.PW8/A shows that the land measuring 13 kanals 1 marla which is the same land as has been mentioned in Ex. PWI/A, was mutated in favour of accused Suman as well as her children and this mutation was sanctioned on 3.3.2011 in the light of the Civil Court Decree dated 5.10.2010, whereas the sale deed shown by the complainant to have been executed by Ashwani in her favour is of dated 4.3.2011 i.e. one day prior to the date of sanction of the mutation Ex.PW8/A. It is the settled law that mutation does not create any title. When the Court decree in favour of accused Suman as well as her children qua the land measuring 13 kanals 1 marla which is the same land as have been mentioned in Ex.PWI/A had already come in existence way-back on 5.10.2010 then accused Suman had already become owner of the said property up to the extent of her share in the year 2010 itself. If mutation was sanctioned later-on i.e. on 3.3.2011 then that does not dilute or destroy her right in the property as has been shown in Ex.PW8/A. This fact shows that both the acts i.e. the decree of the learned Civil Court dated 5.10.2010 and sanctioning of the mutation in favour of accused Suman as well as her children on 3.3.2011 had already come in existence prior to the execution of the sale deed Ex.PWI/A in favour of the complainant qua the same property. This fact clearly proves on the case file that intention of accused Suman cannot be even presumed to either cheat or to hatch a criminal conspiracy with the complainant. When she had already become owner of the property way-back in the year 2010 then her intention from the

very beginning to cheat the complainant does not arise at all. As this Court has already opined that mere sanctioning of the mutation does not create title rather the ownership of the property in favour of accused Suman had already come through the Court decree way-back on 5.10.2010. Thus, the above fact coupled with the fact that neither the signature or thumb impression of accused Suman are present anywhere on the sale deed Ex.PWI/A as well as on the agreement to sell then accused Suman cannot be held guilty for the charges levelled against her. The prosecution, thus, has miserably failed to prove such intention either to cheat or to induce the complainant against accused Suman from very beginning. If so is the position then the question of criminal intimidation on part of accused Suman further does not arise at all. Thus, this Court has reached at the conclusion that the prosecution has miserably failed to bring home the guilt against accused Suman and has further failed to prove the necessary ingredients of sections 420, 120-B and 506 against the accused. The learned trial Court, thus has rightly acquitted the said accused from the charges levelled against her.”

14. It is evident from a perusal of the above that the Courts specifically noticed that the entire case of the petitioner rests upon the sale deed executed by Ashwani in her favour. The sale Ex. PW-1/A was perused and it was specifically established that Suman was not a signatory to the said sale deed either as a witness or as an executant of the said document and only the name of the vendor Ashwani, had been mentioned. Besides, the sale deed was signed by two witnesses, i.e. Dharampal, Nambardar and

Rajender Singh, along with the purchaser. Even the copy of the agreement to sell dated 04.03.2011 was gone through and it was noticed that the said agreement had also not been signed or marked by respondent-Suman. Once a specific allegation was to the effect that Suman, along with her husband, had visited the house of the petitioner-complainant and cheated them by hatching a criminal conspiracy, they needed to establish the presence of Suman at the time not only entering into the agreement to sell but also at the time of execution of the sale deed. It was further noticed that, as per the copy of the mutation Ex.PW-8/A, mutation of the land in question had already been sanctioned in favour of Suman as well as their minor children on 03.03.2011 in light of the Civil Court decree dated 05.10.2010. The sale deed in favour of the petitioner herein is stated to have been executed on 04.03.2011, i.e. after the sanction of mutation. It was noticed that merely because the mutation was sanctioned one day prior to the execution of the sale deed would not in any manner reflect a criminal conspiracy on the part of Suman-respondent No.2, considering that the title in her favour had been conferred from the consent decree executed on 05.10.2010. A delay in the sanction of mutation would not make her a participant in the commission of the alleged offence. Besides, it was also noticed that there is no evidence on record on the basis whereof it may be assumed that respondent No.2 ever received money from the petitioner-complainant or had induced her to part with any payment on a false assurance. It also appears that the petitioner did not carry out due diligence on her part and simply entered into an agreement to sell. Hence, the benefit was extended to respondent No.2, and she was acquitted of the charges.

15. On going through the judgments available on record as well as the arguments advanced by the counsel for the respective parties and the evidence, I find that the findings recorded by both the Courts cannot be said to be faulty. The conclusions cannot be said to be misplaced, misconceived, or not flowing from an objective and meaningful reading of evidence adduced on record. The High Court in its Revisional jurisdiction would not supplant its own opinion for that of both the Courts dealing with the issue. Merely because there is a change of opinion would not be a sufficient ground to interfere with the judgments that have been concurrently passed by both the Courts.

16. Finding no illegality, impropriety, perversity or misappreciation of the evidence, the present petition is ***dismissed***. The judgment dated 19.08.2013 passed by the Sub-Divisional Judicial Magistrate, Siwani, as well as the judgment dated 12.02.2016 of the Additional Sessions Judge, Bhiwani, are hereby affirmed.

(VINOD S. BHARDWAJ)
JUDGE

20.04.2026

Mangal Singh

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