
(2010) 04 P&H CK 0389
In the Punjab And Haryana At Chandigarh

Girdhari Lal	Vs	APPELLANT
State of Haryana		RESPONDENT

Date of Decision : 19-04-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2010) 04 P&H CK 0389

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.S. Saron, J.—This criminal revision petition has been filed by the petitioner-Girdhari Lal against the judgment and order dated 4.5.2009 passed by the learned Additional Sessions Judge, Gurgaon whereby his appeal along with the appeal of co-accused Rajender (non-petitioner) against the judgment dated 15.11.2007 and order of sentence dated 17.11.2009 has been dismissed.

2. The FIR in the case was registered on the complaint of Arjun Kumar, Clerk of Court (PW-2). The prosecution case is that one convict, namely, Balwant was ordered to be released on bail by this Court in case titled Lal Chand v. State of Haryana (Criminal Appeal No. 232-SB of 2004). On 28.4.2006, an application was submitted by the said convict for furnishing bail bond and surety on his behalf. Balwant the convict was ordered to be released on bail by the learned Chief Judicial Magistrate, Gurgaon (PW-7) on furnishing bail bond in the sum of Rs. 50,000/- with two sureties in the like amount. In terms of the said order Rajender Singh (nonpetitioner) and Girdhari Lal (petitioner) furnished surety bonds in the Court of learned Chief Judicial Magistrate, Gurgaon (PW-7). Along with surety bonds they annexed Jamabandis (Ex.P.1 and Ex.P.2). The learned Chief Judicial Magistrate, Gurgaon sent the said Jamabandis to the Sub Divisional Magistrate, Gurgaon for verification of their genuineness. The report (Ex.PW.1/A) was received from the revenue authorities which was to the effect that both the Jamabandis did not tally with the revenue records and, therefore, were forged.

Accordingly, a complaint (Ex.PW.2/B) was made by Arjun Kumar, Clerk of Court (PW-2) to the Police. The original Jamabandis were handed over to the Police. The surety bonds (Ex.P.3 and Ex.P.4) were also taken in possession by the Police. Smt. Shalini Singh, then Chief Judicial Magistrate, Gurgaon (PW-7) appeared during trial of the case. It was deposed by her that she was posted as Chief Judicial Magistrate, Gurgaon when an application for surety bonds on behalf of one convict, namely, Balwant was submitted. The same was submitted in pursuance of order dated 20.1.2006 passed by this Court in Criminal Appeal No. 232-SB of 2004 titled Lal Chand v. State of Haryana. The Jamabandis which were furnished for sureties were sent for verification. Girdhari Lal (petitioner) claimed to be owner in possession of land measuring 14 Marlas. Rajender (non-petitioner) furnished Jamabandi claiming to be owner of land measuring 5 Kanals 18 Marlas. It was deposed by her that both the accused present in Court had furnished the surety bonds and she had sent the Jamabandis for verification to the Sub Divisional Magistrate, Gurgaon vide letter (Ex.PW.2/A) as the sureties did not appear to be genuine. The Tehsildar reported that the Jamabandis were forged and fabricated. Thereafter, she directed Arjun Kumar, Clerk of Court (PW-2) to lodge complaint with the Police. It was deposed that Jamabandis produced before her were (Ex.P.1 and P.2/A) and surety bonds furnished by the accused were (Ex.P.3 and Ex.P.4) respectively. The learned Additional Chief Judicial Magistrate, Gurgaon vide order dated 15.11.2007 convicted the petitioner and his co-accused Rajender for the offences punishable under Sections 420, 467, 468 and 471 IPC read with Section 120B IPC. They were sentenced to undergo rigorous imprisonment for five years for the offences under Sections 467, 468 and 471 IPC; besides, to pay a fine of Rs. 1,000 for the offence u/s 467 IPC and a fine of Rs. 500/- for the offence u/s 468 IPC as also to pay a fine of Rs. 1,000/- for the offence u/s 471 IPC. They were also sentenced to rigorous imprisonment for three years and to pay a fine of Rs. 500/- for the offence u/s 420 IPC. In default of payment of fine they were ordered to undergo simple imprisonment for different terms.

3. In appeal the learned Additional Sessions Judge, Gurgaon acquitted the petitioner and his co-accused for the offence u/s 467 IPC and the payment of fine of Rs. 1,000/- each imposed was ordered to be refunded after the period of appeal/revision, if any. The co-accused of the petitioner, namely, Rajender is not shown to have filed any revision against the order dated 4.5.2009 passed by the learned Additional Sessions Judge, Gurgaon.

4. Learned Counsel for the petitioner has contended that the Naib Tehsildar Vijay Kumar (PW-5) has deposed that report of Patwari (Ex.P.1/A) bears his signatures. However, in his cross-examination he deposed that he himself had not consulted the revenue record. Therefore, according to the petitioner the Naib Tehsildar did not verify actual revenue record and as such the report (Ex.P.1/A) is without verification of the revenue records. Therefore, the petitioner is liable to be acquitted.

5. After giving my thoughtful consideration to the matter, it may be noticed that the petitioner and co-accused have furnished false revenue records i.e. Jamabandis (Exs.P.1 and P.2). The petitioner had represented that he owns 14 Marlas of land. After the matter was referred to the Sub Divisional Magistrate, Gurgaon by the learned Chief Judicial Magistrate, Gurgaon it transpired that the revenue records as furnished by the petitioner did not tally with the actual revenue record. The Patwari has submitted his report that the Jamabandis produced by the petitioner and his co-accused were forged. Ass Mohd., Patwari (PW-1) had appeared in the witness box and deposed that he remained posted as Patwari Sohna Circle from July 2003 to September 2006. At that time a letter was received from the Court of Smt. Shalini Singh, Chief Judicial Magistrate, Gurgaon through the office of SDM, Gurgaon along with photo copies of the Jamabandis. He compared the Jamabandi (Ex.P.1) in the name of Rajender son of Rohtas and Jamabandi (Ex.P.2) in the name of Girdhari Lal son of Ganga Dass with the original revenue record which did not match with revenue record and were found to be forged and fabricated. Thereafter, he had sent his report (Ex.PW.1/A) on the reverse side of the letter received from the Court of learned Chief Judicial Magistrate, Gurgaon which was in his hand and was signed by him. It was also deposed that the Jamabandis which were produced did not bear his signatures and rather the same bear forged signatures. In the afore-noticed circumstances Ass Mohd., Patwari (PW-1) having specifically compared the Jamabandis with the original revenue record, the mere fact that Vijay Kumar, Naib Tehsildar (PW-5) did not compare them is inconsequential. The report given by Ass Mohd., Patwari (PW-1) had only been endorsed by Naib Tehsildar Vijay Kumar (PW-5). There is nothing on record to dislodge the report (Ex.P.W.1/A) submitted by Ass. Mohd., Patwari (PW-1). Therefore, the contention raised by the learned Counsel for the petitioner that Naib Tehsildar Vijay Kumar (PW-5) himself had not consulted the revenue record is devoid of any merit.

6. In the circumstances, there is no merit in this petition and the same is accordingly dismissed.