

men of straw; not picked up from dirt; and if they wallowed in dirt, it was dust smeared with mother earth of men and women, who had made substantial sacrifices in their lives for the sake of the country.

(13) The writ petition is wholly vexatious. The objections taken as regards maintainability of reference which had been substantially answered by the Industrial Tribunal had not been urged before me. The learned counsel merely confined himself to the issue that the regularization could not be a matter of course any longer in view of the disposition of the law stated by the Hon'ble Supreme Court in Uma Devi referred to above. I have already pointed out that none of the decisions have any applicability to the factual situations obtaining in this case.

(14) The writ petition is dismissed with costs assessed at Rs. 10,000. The scheme directed to be framed for regularization by the Industrial Tribunal shall now be undertaken and completed within a period of four months.

R.N.R.

Before Jitendra Chauhan, J.

RAGHUBIR SINGH,—Petitioner

versus

STATE OF HARYANA,—Respondent

CrI. R. 664 of 2004

21st October, 2010 २०१०

Punjab Sugarcane (Regulation of Purchase and Supply) Rules, 1958—Indian Penal Code, 1860—S. 420—Weight of sugarcane found to be deficient—FIR u/s 420 against owner of weighing bridge and one worker—Petitioner only in employment for weighing cane at weighing bridge—Sole beneficiary of weighing bridge is its owner a co-accused already acquitted—No intention of petitioner to deceive cane-growers—Ingredients of S. 420 IPC not made out against petitioner—Petition allowed, conviction and sentence awarded by Courts below set aside and petitioner ordered to be acquitted of charge set out against him.

Held, that the petitioner being not owner of the bridge does not seem to have any motive or intention to weigh less as he was not the beneficiary in the transaction. The cane purchasing centre was under the effective control of accused Karanjit Singh and under supervision of the representative of the Sugar Mills. From reading of provisions of Section 420 of IPC it is clear that the offence under Section 420 IPC is not made out. The weighment was not as per the procedure laid down in the Rules 1958. Complainant Satbir Singh has admitted that the weights as prescribed by the Rules 1958 were not found at the cane centre. In these circumstances, therefore, I have no hesitation in holding that the weighment as such in the instant case is not fool proof and it casts doubts on the truthfulness of the case of prosecution. Moreover, the co-accused Karanjit Singh, owner of the weigh bridge, who is the main beneficiary, already stands acquitted by the learned Appellate Court.

(Paras 18 & 20)

Kapil Aggarwal, Advocate, *for the petitioner*.

Mrs. Naveen Malik, Additional Advocate General, Haryana.

JITENDRA CHAUHAN, J.

(1) This revision petition is directed against the judgment dated 3rd March, 2004 passed by the learned Additional Sessions Judge, Jagadhari whereby judgment of conviction and sentence dated 27th July, 2000 passed by the trial Court was upheld and he had been convicted and sentenced to undergo rigorous imprisonment for a period of three years for commission of offence under Section 420 of the Indian Penal Code and also to pay a fine of Rs. 1,000 and in default of payment of fine, to further undergo simple imprisonment for a period of six months, was affirmed.

(2) As per prosecution case, on 14th February, 1991 Shri Satbir Singh, Agricultural Development Officer (Cane), Yamuna Nagar inspected the sugarcane purchase centre on a complaint made by Secretary of Co-operative Society of Cane growers, Radaur. The weight of sugarcane of two bullock carts, as managed by the petitioner, was found to be deficient by 80 kgs. and 85 kgs., respectively, by the Agricultural Development

Officer (Cane), Yamuna Nagar. Besides this, the weighing bridge was also found adjusted with the help of a wire in order to show less than the actual weight. A hole was also made in the wooden box of the weighing bridge for the same purpose.

(3) On this complaint, a case was registered against the petitioner-accused and his co-accused Karanjit Singh, son of Jagjit Singh. The Investigating Officer, ASI Randhir Singh, prepared the rough site plan, recorded the statement of the witnesses and arrested the accused.

(4) After completion of investigation, report under Section 173 of the Code of Criminal Procedure was submitted before the Court.

(5) Accused were charge-sheeted under Section 420 of the Indian Penal Code to which they pleaded not guilty and claimed trial.

(6) In support of its case, the prosecution examined as many as eight witnesses.

(7) Statements of the accused under Section 313 of the Code of Criminal Procedure were recorded, wherein both the accused denied all the allegations levelled against them and claimed themselves to be innocent.

(8) After going through the evidence on record, the trial court convicted both the accused *vide* judgment/order dated 27th July, 2000, which was challenged in appeal. In appeal, learned Additional Sessions Judge, Jagadhari acquitted the co-accused Karanjit Singh, owner of the weighing bridge and dismissed the appeal *qua* the present petitioner-accused as noticed above.

(9) Learned counsel for the petitioner has argued that the petitioner was in the employment of co-accused Karanjit Singh for weighing the cane at the weighing bridge brought by the farmers. The sole beneficiary of this weighing bridge was the co-accused Karanjit Singh. Co-accused Karanjit Singh has already been acquitted by the learned Additional Sessions Judge. The petitioner being not the beneficiary in the transaction had, thus, no intention to deceive the cane growers and, therefore, the ingredients of Section 420 of the Indian Penal Code are not made out against the petitioner.

(10) It is further submitted that as per norm, the weigh bridge is examined after each hour. Balance book is also maintained in this regard at the centre and the agent of the sugar mill also inspect and check the weighing machine at regular intervals. As per the prosecution, deficient weight in sugarcane was found in two bullock carts owned by two persons, namely, Bhal Singh and Budh Ram, but, both of them were not examined by the prosecution, which renders the prosecution version doubtful.

(11) Kashmir Singh, PW1, and Jaspal Singh, PW2, in their cross-examination, have admitted that the petitioner was not present at the spot at the time of inspection. Apart from the clutch wire, which was being used for determining weightment, a piece of wood was also taken into possession as part of the case properties as these were being used to manipulate the machine. However, the said case property was not produced in the Court. Moreover, Randhir Singh and Dhanpal Singh, who investigated the case, have not been examined by the prosecution thereby depriving the accused to cross-examine these witnesses on the material points in the instant case and, as such, the benefit of this must go to the petitioner-accused.

(12) The motive is not established. The entire payment was made to the co-accused Karanjit Singh and no payment was received by the petitioner and even if it is presumed for the sake of arguments that the petitioner accepted the payment, ultimately the beneficiary of such payment is co-accused Karanjit Singh, who has since been acquitted by the learned Additional Session Judge.

(13) The solitary evidence against the petitioner is the statement of complainant, PW4. The conviction cannot be based on the solitary statement of PW4 as the weighing made was not in accordance with the prescribed procedure as laid down in the Punjab Sugarcane (Regulation of Purchase and Supply) Rules, 1958 (hereinafter referred to as "Rules 1958".)

(14) Lastly, learned counsel for the petitioner has argued that as per Section 5 of the Code of Criminal Procedure, if an offence is triable under the provisions of Code of Criminal Procedure and punishable under the Indian Penal Code with some other special statute as well, then the procedure and punishment provided under the special statute shall prevail.

(15) In view of the finding recorded by the learned trial Court that the petitioner is not liable to be punished for an offence under the Rules 1958, as such, the petitioner cannot be held guilty and convicted under Section 420 of the Indian Penal Code.

(16) Learned State Counsel has submitted that the petitioner-accused being the employee of the co-accused cannot escape from his liability.

(17) I have heard learned counsel for the parties and perused the record.

(18) It is not disputed that the petitioner was not in employment of the co-accused Karanjit Singh. The petitioner was employed to weigh the cane brought by the farmers to the weighing bridge. It has come in the statement of PW1 that the petitioner was not present at the spot at the time of inspection by the Agricultural Development Officer (Cane). Apart from the statement of PW1, the case property in the instant case was never produced before the Court. The petitioner being not owner of the bridge does not seem to have any motive or intention to weigh less as he was not the beneficiary in the transaction. The cane purchasing centre was under the effective control of accused Karanjit Singh and under supervision of the representative of the Sugar Mills.

(19) Section 420 of the Indian Penal Code reads as under :

“420. Cheating and dishonestly inducing delivery of property.

Whoever cheats and thereby dishonestly induces the person deceived to deliver and property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Of fraudulent deeds and dispositions of property.”

(20) From the reading of aforesaid, it is clear that the offence under Section 420 of the Indian Penal Code is not made out. The weighing was

not as per the procedure laid down in the Rules 1958. In the present case, complainant Satbir Singh, PW4, has admitted that the weights as prescribed by the Rules 1958 were not found at the cane centre. In these circumstances, therefore, I have no hesitation in holding that the weightment as such in the instant case is not fool proof and it casts doubts on the truthfulness of the case of prosecution. Moreover, the co-accused Karanjit Singh, owner of the weigh bridge, who is the main beneficiary, already stands acquitted by the learned Appellate Court.

(21) Therefore, in the aforesaid facts and circumstances and in view of the procedure laid down in Rules 1958, the present revision petition is allowed and the conviction and sentence awarded by the Courts below are set aside and the petitioner is acquitted of the charge set out against him.

R.N.R.

Before M.M. Kumar, J.

**M/S RAMA PETROCHEMICAL LTD.
AND OTHERS,—Petitioners**

versus

**PUNJAB STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED AND OTHERS,—Respondents**

C.W.P. No. 12861 of 2006

27th November, 2009

Constitution of India, 1950—Art. 226—Punjab Public Moneys (Recovery of Dues) Act, 1983—S. 3—Sick Industrial Companies (Special Provisions) Act, 1985—Companies Act, 1956—S. 617—Securities Contracts (Regulation) Act, 1956—S.16—PSIDC, a fully government owned company, and a limited Company entering into a Financial Collaboration Agreement for setting up a project-PSIDC seeking to recover its dues—Whether outstanding dues of a Financial Corporation could be recovered by it u/s 3 of 1983 Act—Provisions of S. 3 of 1983 Act cannot be stretched by interpretation to confine recovery by way of arrears of land revenue only in respect