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

CRR-2463-2009

Date of Decision:- 09.04.2025

CHARANJIT KAUR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Divyadeep Walia, Advocate and
Ms. Ruchi Sekhri, Advocate (Amicus Curiae)
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

Mr. Gaurav Vir Singh Behl, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 13.08.2009 passed by the Additional Sessions Judge (Fast Track Court), Bathinda whereby the appeal filed against the judgment of conviction and order of sentence dated 22.07.2008 passed by the Sub-Divisional Judicial Magistrate, Phul has been dismissed.

2. The FIR in the present case came to be registered on 05.06.2000. The judgment of conviction was passed on 22.07.2008 by the Sub-Divisional Judicial Magistrate, Phul. The appeal filed against the order of conviction was dismissed on 22.07.2008 by the Additional Sessions Judge (Fast Track Court), Bathinda. The instant revision petition was filed on 15.09.2009 and has come up for final hearing now i.e. after a period of more than 24 ½ years from the date of registration of the FIR.

3. The brief facts of the case are that the present case was



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registered on the basis of an application moved by the complainant Pritpal Singh and Jagjit Singh to SSP Bathinda. It was alleged in the application that both of them were class fellows. They decided to go to Canada and asked their families to make arrangements of the finances for sending them abroad. They contacted Charanjit Kaur @ Sukhwinder Kaur through Gurlabh Kaur wife of Mohinder Singh for the said purpose. The accused Charanjit Kaur was the cousin sister of daughter-in-law of Gurlabh Kaur who was a distant relative of Pritpal Singh. They were on visiting terms with Gurlabh Kaur, due to which they believed her. The deal was struck for Rs.15 lacs for going to Canada between them and the accused party. They paid Rs.3 lac to accused Charanjit Kaur in the presence of Gurlabh Kaur at Rampura Phul on 30.05.1999 while the remaining amount was to be paid when they were to get the visitors visa. They went to Rampura Phul on 17.11.1999 alongwith Gurlabh Kaur on the direction of Charanjit Kaur, who promised to take them to New Delhi on the same day. She also conveyed to them that the visitors visa had already been issued to them. She asked them to deliver the remaining amount as the said amount was to be handed over to the concerned persons who were known to Charanjit Kaur after they had taken the flight to Canada. The accused Gurlabh Kaur also promised them that no fraud would be played with them. They delivered the remaining amount of Rs.12 lacs to accused Charanjit Kaur on the assurance of Gurlabh Kaur. Thereafter, they went to Delhi. Their father also accompanied them. The accused had also called two agents to Delhi as per their program. They told them that the flight to Canada would be available from Bombay. They went to Bombay on 18.11.1999 by air. They were kept at the airport hotel at



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Bombay. The accused had shown the passport and the visa to them on 19.11.1999. The accused also produced before them the tickets of the flight on 23.11.1999. The accused took them to the airport on 23.11.1999 but they made an excuse that the flight had been delayed and they would get a flight for the next date. The accused exchanged the tickets and booked the flight for 29.11.1999. But on the evening of 28.11.1999 the accused again told them that strict checking was going on at the airport due to which they would board the flight of 02.12.1999. On 30.11.1999 Charanjit Kaur went away to Delhi saying that she was to send 4/5 boys to Canada from a new Delhi flight. But she promised to keep in contact with them on the telephone. The accused Charanjit Kaur went away from Bombay alongwith Gurlabh Kaur. The agent used to visit them after 2/3 days and would promise them that they would go to definitely to Canada. The accused came to them on 02.12.1999 to 09.12.1999, 14.11.1999, 18.12.1999, 21.12.1999. Goggi son of Gurlabh Kaur visited them on 10.12.1999 and assured them that they were going to Canada. Goggi used to contact Charanjit Kaur and Kaur Singh on the telephone. He informed them that Kaur Singh was the brother-in-law of Charanjit Kaur (Jija) and him (Sandhu). He also informed that accused Charanjit Kaur and Kaur Singh were sending people abroad jointly. The accused Charanjit Kaur had full faith in accused Kaur Singh. After spending 36 days in Bombay, they returned to their village on 23.12.1999. They contacted Gurlabh Kaur who assured them that their money would be returned. The accused Charanjit Kaur promised them on the telephone that they would go to Canada. Charanjit Kaur visited the house of Pritpal Singh alongwith Gurlabh Kaur. She told them that she would



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return the money as she is unable to send them to Canada. She also executed asking regarding the receipt of money from them. Thus, the accused had defrauded them of an amount of Rs.15 lacs and had ruined their lives.

4. After the registration of the FIR, formal investigation began. The statement of Pritpal Singh was recorded u/s 161Cr.P.C. The accused Charanjit Kaur was arrested. Statements of the witnesses were recorded. The accused Gurdip Singh and Kaur Singh were found innocent during the investigation and were kept in column no.2 of the challan. After the completion of the all the necessary formalities challan was prepared and put up before the Court.

5. The prosecution moved an application U/S 190, 319 Cr.P.C. for summoning the accused Gurdip Singh, Kaur Singh and Gurlabh Kaur. Vide order dated 25.07.2003, the said application was allowed and the accused Gurdip Singh, Kaur Singh and Gurlabh Kaur were summoned.

6. After hearing the counsel for the parties, charge was found to be made out against the accused u/s 420/120-B IPC. Accordingly, charges were framed against the accused Charanjit Kaur, Gurlabh Kaur, Gurdip Singh and Kaur Singh to which they pleaded not guilty and claimed trial. Gurdip Singh later was declared a proclaimed offender.

7. To prove the case of the prosecution, the prosecution examined PW-1 S.I. Gurtej Singh, who proved the personal search memo (Ex.P1) of the accused Charanjit Kaur, PW2-Jagjit Singh complainant supported the version of the prosecution in his deposition and proved the application Ex.P2 moved to SSP Bathinda and the writing Mark-A in his deposition, PW3-Tehal Singh supported the version of the prosecution, complainant Pritpal



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Singh (PW4) also lent his support to the case of the prosecution. Thereafter, the evidence of the prosecution was closed.

8. The statements of the accused were recorded U/s 313 Cr.P.C. wherein all the incriminating circumstances appearing in the testimony of the prosecution witnesses was put to them. However, they pleaded their innocence and claimed false implication.

9. Based on the evidence led, while Kaur Singh S/o Jangir Singh came to be acquitted, Charanjit Kaur w/o Tara Singh and Gurlabh Kaur wife of Mohinder Singh were convicted and sentenced by the Court of Sub-Divisional Judicial Magistrate, Phul vide judgment and order of sentence dated 22.07.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
420 IPC	RI for 02 years each	Rs.1000/- each	RI for 03 months each
420/120-B	RI for 02 years each	Rs.1000/- each	RI for 03 months
420/120-B	RI for 02 years each	Rs.1000/- each	RI for 03 months

All the sentences were ordered to run concurrently.

10. The accused preferred separate appeals which came to be dismissed by the Court of Additional Sessions Judge (Fast Track Court), Bathinda vide judgment dated 13.08.2009.

11. The present revision petition has been filed by Charanjit Kaur (petitioner) challenging her conviction. Gurlabh Kaur had filed CRR-2271-2009 challenging her conviction. However, she chose not to agitate her case on merits but paid a sum of Rs.5 lakhs each to Pritpal Singh (PW4) and Jagjit Singh (PW2) and by taking a lenient view, while upholding her conviction, her sentence was reduced to the period already undergone by her.



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12. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended by this Court vide order dated 12.10.2009.

13. The learned Amicus Curiae and counsel for the petitioner contend that there is a delay in the registration of the FIR. The prosecution witnesses have made improvements in their statements in Court. The prosecution has failed to prove the delivery of the amount of Rs.15 lac to the accused Charanjit Kaur. They contended that even if the version of the prosecution that the amount of Rs. 15 lac was delivered to the accused is admitted as correct, the liability was only civil in nature and the accused could not be said to have committed a criminal offence. The prosecution has failed to prove that the alleged amount of Rs.15 lac was received by the accused Charanjit Kaur with the intention to cheat the complainants and therefore, no offence u/s 420 IPC is made out against the accused. Further, the complainants have not been able to explain the source of funds to pay the accused. The prosecution has also failed to prove the passport of complainants Pritpal Singh (PW4) and Jagjit Singh (PW2) and no documentary evidence has been adduced that PW-2 Jagjit Singh and PW-4 Pritpal Singh stayed in first in Delhi then in Bombay for 36 days alongwith the accused and that further there is no evidence of all of them taking any flight from Delhi to Bombay. They, thus contend that the judgments of conviction were liable to be set aside and the accused be acquitted of the charges framed against them. Reliance is placed on **Union Territory, Chandigarh Versus Gurmail Singh & another, CRA-1378-SB-2002, decided on 23.08.2010** and **State of Punjab Versus Shankar Singh &**



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another, CRA-S-2457-SBA-2006, decided on 01.09.2022. In the alternative, it is prayed that keeping in view the fact that the occurrence took place 24 ½ years ago and the accused was now of the age of 74 years, she be released on probation in case this Court was of the view that her conviction was to be upheld.

14. On the other hand, the learned State counsel along with the counsel for the complainants submit that offences stand established beyond reasonable doubt. The statements of PW2-Jagjit Singh, PW3-Tara Singh and PW4-Pritpal Singh are consistent regarding the allegations and how both the accused received a sum of Rs.15 lakhs in order to send Pritpal Singh S/o Tehal Singh and Jagjit Singh S/o Bant Singh abroad. The sources of funds also stand explained. Therefore, the present petition was liable to be dismissed. In addition, they contend that the accused was not liable for lenient treatment as such like offences were on the rise and the stern action must be taken against the perpetrators.

15. I have heard learned counsel for the parties.

16. A perusal of the deposition of PW-2 Jagjit Singh (complainant) would reveal that he has reiterated the version of the prosecution in his deposition in a clear and cogent manner. As regards the source of funds, he in his cross-examination stated as under:-

“The money paid to them is of our savings and some amount was taken from the relatives. I was having FD of Rs.6 lacs. Rs.20,000/- were lying at home as savings and Rs.60,000/- were taken from my brother-in-law Jagtar Singh, Rs.40,000/- were taken from my cousin (son of sister father), Rs.30,000/- were taken from my commission agent, whose name is Hukam Chand. At his shop, the name was written as Hukam Chand,



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Commissioner Agent. I had brought my money with myself separately, which were given to Charanjit Kaur and Pritpal Singh had brought his money separately.”

17. PW-4 Pritpal Singh supported the version of the prosecution and testified that he and Jagjit Singh decided to go to Canada and contacted Gurlabh Kaur his relative. Accused Gurlabh Kaur took him, his father, Jagjit Singh and Bant Singh to Rampura and introduced them to accused Charanjit Kaur who was the cousin of the daughter-in-law of Charanjit Kaur. The accused Charanjit Kaur had made the demand of Rs.15 lacs for sending Jagjit Singh and him to Canada. Jagjit Singh and he delivered the amount of Rs.3 lac to Charanjit Kaur at Rampura in the presence of Gurlabh Kaur. The remaining amount of Rs. 12 lacs was also delivered to accused Charanjit Kaur at Rampura in the presence of Gurlabh Kaur. The accused Charanjit Kaur asked them to reach Delhi. Thereafter, Jagjit Singh, his father, he and his father went to Delhi. They met accused Charanjit Kaur and Gurlabh Kaur there. However, the accused told them that they would take the flight to Canada from Bombay. The accused took them to Bombay by air. However, Bant Singh father of Jagjit Singh returned from Delhi. Jagjit Singh, he and his father were made to reside in a hotel near the airport at Bombay. They were promised that they would take the flight to Canada on 23-11-1999. However, it was conveyed to them their flight had been delayed, due to which they were to go to Canada on 29-11-1999. The accused took them to the airport on 29-11-1999. However, they returned from there on the pretext that the security was very tight at the airport. The accused Charanjit Kaur and Gurlabh Kaur returned to Delhi on 30-11-1999 on the pretext that they were to arrange the flight of some other persons from Delhi. One agent Soni



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used to visit them. He used to contact Charanjit Kaur and others. The accused Goggi son of Gurlabh Kaur came to them and told them that accused Charanjit Kaur and accused Kaur Singh were running a business of sending persons abroad jointly. The accused used to make excuses for sending them abroad. They resided at Bombay for 36 days. But the accused failed to send them to Canada. Thereafter, Jagjit Singh and he returned to their village and demanded the amount of Rs. 15 lacs from accused Gurlabh Kaur and Charanjit Kaur. The accused Charanjit Kaur visited their home on 07-05-2000 alongwith accused Gurlabh Kaur and conveyed to them that she could not arrange the money. The accused Charanjit Kaur executed one writing Mark A in this respect and handed over the same to them. Thereafter, they moved the application Ex. P2 to the police as the accused had committed cheating with them in conspiracy with each other. In cross-examination, he stated as under:-

“We had paid Rs.7.5 lacs by drawing it from the bank.”

18. Regarding the improvements and irregularities pointed out by the counsel for the accused in the statements of Pw-2 Jagjit Singh Pw-3 Tehal Singh and Pw-4 Pritpal Singh, the said improvements and irregularities are bound to occur with the passage of time as human memory is short and fades with the time. The improvements made are minor and do not go to the root of the case of the prosecution. A parrot like repetition of the facts, is not expected from the witnesses after a lapse of considerable time. Rather the irregularities and improvements in the testimonies of the prosecution witnesses go to show that the said witnesses are deposing truthfully and are not tutored witnesses.



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19. So far as the contention regarding delay in the lodging of the FIR is concerned, the same does not create any significant dent in the prosecution case. It is the admitted case of the complainant that accused Gurlabh Kaur was their relative and she had introduced them to Charanjit Kaur, cousin of her daughter in law Raj Kaur. Thus, when accused Gurlabh Kaur and Charanjit Kaur were known to PW-3 Tehal Singh and PW-4 Pritpal Singh, it seems probable that they waited for a period of about 6 months to get the amount of Rs. 15 lacs from the accused. Moreover, from the testimony of PW-2 Jagjit Singh, PW-3 Tehal Singh and PW-4 Pritpal Singh it is apparent that accused Gulabh Kaur and Charanjit Kaur had assured them that they would return the amount. Therefore, the complainants quite rightly waited for the period of 6 months for lodging the prosecution against the accused.

20. The contention of the accused that the prosecution had failed to produce evidence of the source of funds and adduce any documentary evidence regarding the delivery of the same to the accused Gurlabh Kaur and Charanjit Kaur cannot be accepted. By way of cogent and convincing evidence PW-2 Jagjit Singh PW-3, Tehal Singh and PW-4 Pritpal Singh have duly proved the source of their funds and the factum of the passing of the amount of Rs.3 lacs of Rs.12 lacs on 30-5-99 and 17-11-99 between them and the accused respectively. The said cogent and trustworthy evidence cannot be brushed aside for want of any corroboration by documentary evidence which is usually absent in such cases as the accused usually do not wish to leave a paper trail.

21. The contention of the counsel that the liability of the accused



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was civil liability at best as the prosecution has failed to prove the ingredients of Section 415 IPC cannot be accepted. From the consistent testimonies of PW-2 Jagjit Singh, PW-3 Tehal Singh and PW-4 Pritpal Singh it stands fully proved that the accused Charanjit Kaur and Gurlabh Kaur defrauded an amount of Rs.15 lacs from PW-2 Jagjit Singh and PW-4 Pritpal Singh by making a false representation to them to send them to Canada if they paid Rs.15 lacs to them. The amount of Rs.3 lac and Rs. 12 lacs was paid to accused Charanjit Kaur by PW-2 Jagjit Singh and PW-4 Pritpal Singh at Rampura in the residence of accused Charanjit Kaur in the presence of accused Gurlabh Kaur. The accused Charanjit Kaur and Gurlabh Kaur were aware of the fact that they would not be able to send PW- 2 Jagjit Singh and PW-4 Pritpal Singh to Canada. However, they made false representations to PW-2 Jagjit Singh and PW-4 Pritpal Singh to part with the amount of Rs.15 lacs to send them to Canada. The accused Charanjit Kaur and Gurlabh Kaur were thus, clearly, having the dishonest or fraudulent intention from the inception.

22. Though, there are certain gaps in the investigation, the benefit of the same cannot accrue to the accused. In the context of the effect on the prosecution case, in case of defective investigation in **C. Muniappan & others Versus State of Tamil Nadu, 2010 AIR Supreme Court 3718**, the Hon'ble Supreme Court held as under:-

“44. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the I.O. and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent



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investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation.”

(Emphasis supplied)

In **Edakkandi Dineshan @ P. Dineshan & others Versus State of Kerala, 2025 AIR Supreme Court 444**, the Hon'ble Supreme Court held as under:-

“22. A cumulative reading of the entire evidence on record suggests that the investigation has not taken place in a proper and disciplined manner. There are various areas where a properly investigation could have strengthened its case. In the case of Paras Yadav & ors. v. State of Bihar, 1999 (2) SCC 126 the Apex Court observed as under:

"Para 8- ..the lapse on the part of the Investigating Officer should not be taken in favour of the accused, may be that such lapse is committed designedly or because of negligence. Hence, the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not. For this purpose, it would be worthwhile to quote the following observations of this Court from the case of Ram Bihari Yadav v. State of Bihar and others, J.T. (1998) 3 SC 290.

"In such cases, the story of the prosecution will have to be examined de hors such omissions and contaminated conduct of the officials otherwise the mischief which was deliberately done would be perpetuated and justice would be denied to the



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complainant party and this would obviously shake the confidence of the people not merely in the law enforcing agency but also in the administration of justice."

Hence, the principle of law is crystal clear that on the account of defective investigation the benefit will not inure to the accused persons on that ground alone. It is well within the domain of the courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses, medical report etc. It has been a consistent stand of this court that the accused cannot claim acquittal on the ground of faulty investigation done by the prosecuting agency. As the version of eyewitnesses in specifically naming the appellants have been consistent throughout the trial, we find that there is enough corroboration to drive home the guilt of the accused persons. When the testimony of PW1 Jitesh, PW 2 and PW4 is seen cumulatively, their versions can be seen to be corroborating each other. All of them being eyewitnesses, what is material to be seen is their stand is consistent when they said that it was A2 who was responsible for inflicting blows on both the deceased. It may not be out of place to mention that though the unfortunate incident took place at midnight around 1 am, it was a full moon night and as such, it was not pitch dark. This has also not been vehemently disputed by the defence counsel. Hence, the version put forth by the prosecution witnesses inspires confidence of this Court. The specific role attributed by the prosecution witnesses cannot be challenged on extraneous grounds which have been raised by the defense. There is no contradiction when it comes to assigning specific role to the above accused. Admittedly, there was an enmity between the witnesses as they were from different political groups. Moreover, it can be seen from the record that the Accused and the witnesses were well acquainted with each other as PW1, PW 2 and PW4 had defected from the CPI and had joined RSS. The witnesses could have tried to implicate anyone had they wished to take advantage of their past acquaintance and recent rivalry."

(Emphasis supplied)



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23. The judgments in **Union Territory, Chandigarh** (supra) and **State of Punjab** (supra) would not apply to the facts of this case and even otherwise were appeals against acquittal of the accused therein where the considerations before the Court for interference are entirely different.

24. From the above discussion, it is crystal clear that the prosecution has duly proved by way of convincing and consistent evidence that Gurlabh Kaur and Charanjit Kaur dishonestly induced PW-2 Jagjit Singh and PW-4 Pritpal Singh to part with the amount of Rs. 15 lac on the pretext of sending them to Canada. However, the accused failed to send the accused to Canada or to return the amount of Rs. 15 lacs to the complainants. Further, the accused have offered no plausible explanation whatsoever as to why the complainant party would have wanted to implicate them in this case.

25. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

26. As regards imposition of sentence, the contention of the accused that the FIR was registered in the year 2000 and that the accused/petitioner was now of the age of 74 years and therefore, she ought to be released on probation cannot be accepted. Such offences of attempted illegal immigration are on the rise. Life savings are used up or loans availed to pay agents both legal and illegal in order to fulfill ones desired for greener pastures abroad. The person is usually cheated by the agent as he is not sent abroad after receipt of the promised amount by the agent. If he manages to go abroad, then his journey is fraught with danger from agents/people smugglers who physically abuse the prospective immigrant enroute to his



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destination and even extort more money from him during the course of his journey. In the unlikely event of him reaching his destination, there is the fear of deportation along with the added responsibility of sending money back home to pay off loans availed to send him abroad. Therefore, Courts must do as much as is possible to nip this evil in the bud and undue sympathy must not be shown. Be that as it may, keeping in view the fact that the FIR was registered 24 ½ years ago and the accused is of the age of approximately 74 years, her sentence is modified as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
420 IPC	SI for 01 year	Rs.1 lakh each	SI for 03 months
420/120-B	SI for 01 year	Rs.1 lakh each	SI for 03 months
420/120-B	SI for 01 year	Rs.1 lakh each	SI for 03 months

All the sentences shall run concurrently. The entire fine shall be paid as compensation to Jagjit Singh and Pritpal Singh in equal proportion.

27. The revision petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

09.04.2025

Jitesh *Whether speaking/reasoned* Yes/No
 Whether reportable Yes/No