

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

ON THE 1st OF SEPTEMBER, 2023

CRIMINAL REVISION No. 321 of 2021

BETWEEN:-

**JILA SEHKARI KENDRIYA BANK BRANCH MANAGER
BRANCH RAJPUR (MADHYA PRADESH)**

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THR. P.S. RAJPUR (MADHYA
PRADESH)**
- 2. RAJARAM S/O PUNAMCHAND, AGED ABOUT 57
YEARS, BARWANI (MADHYA PRADESH)**
- 3. GAJANAND S/O MANGILAL KUMRAVAT, AGED
ABOUT 51 YEARS, MULTHAN TEH. KASRAWAD
(MADHYA PRADESH)**

.....RESPONDENTS

***(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL
STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR
THE RESPONDENT [R-2-3].***

CRIMINAL REVISION No. 232 of 2021

BETWEEN:-

**JILA SAHKARI KENDRYA BANK BRANCH MANAGER
BRANCH RAJPUR (MADHYA PRADESH)**

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER).

AND

- 1. STATE OF M.P. STATION HOUSE OFFICER**

THROUGH P.S. RAJPUR (MADHYA PRADESH)

2. RAJARAM S/O PUNAMCHAND, AGED ABOUT 57 YEARS, BARWANI (MADHYA PRADESH)
3. GAJANAND S/O MANGILAL KUMRAVAT, AGED ABOUT 51 YEARS, MULTHAN, TEHSIL - KASRAWAD (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR THE RESPONDENT [R-2-3].

CRIMINAL REVISION No. 246 of 2021

BETWEEN:-

JILA SAHKARI KENDRIYA BANK BRANCH MANAGER
BRANCH RAJPUR (MADHYA PRADESH)

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER).

AND

1. STATE OF M.P. STATION HOUSE OFFICER
THROUGH P.S. RAJPUR (MADHYA PRADESH)
2. RAJARAM S/O PUNAMCHAND, AGED ABOUT 57 YEARS, BARWANI (MADHYA PRADESH)
3. GAJANAND S/O MANGILAL KUMRAVAT, AGED ABOUT 51 YEARS, MULTHAN TEH. KASRAWAD (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR THE RESPONDENT [R-2-3].

CRIMINAL REVISION No. 484 of 2021

BETWEEN:-

BRANCH MANAGER JILA SEHKARI KENDRIYA BANK
BRANCH MANAGER BRANCH RAJPUR, DIST. BARWANI
(MADHYA PRADESH)

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER)

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THRU. P.S. RAJPUR, DIST. BARWANI (MADHYA PRADESH)
2. RAJARAM S/O PUNAMCHAND, AGED ABOUT 57 YEARS, BARWANI (MADHYA PRADESH)
3. GAJANAND S/O MANGILAL KUMRAVAT, AGED ABOUT 51 YEARS, MULTHAN, TEHSIL KASRAWAD DIST KHARGONE (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR THE RESPONDENT [R-2-3].

CRIMINAL REVISION No. 1177 of 2021

BETWEEN:-

**JILA SEHKARI KENDRIYA BANK BRANCH MANAGER
BRANCH - RAJPUR (MADHYA PRADESH)**

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER)

AND

1. THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THRU. P.S. RAJPUR, DIST. BARWANI (MADHYA PRADESH)
2. RAJARAM S/O POONAMCHAND, AGED ABOUT 57 YEARS, BARWANI (MADHYA PRADESH)
3. GAJANAND S/O MANGILAL KUMRAVAT, AGED ABOUT 51 YEARS, MULTHAN, TEH. KASRAWAD DISTT. KHARGONE (MADHYA PRADESH)

.....RESPONDENTS

(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR THE RESPONDENT [R-2-3].

CRIMINAL REVISION No. 1470 of 2021**BETWEEN:-**

**JILA SEHKARI KENDIRYA BANK THR. BRANCH
MANAGER BRANCH RAJPUR (MADHYA PRADESH)**

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THR. P.S. RAJPUR (MADHYA
PRADESH)**
- 2. RAJARAM S/O PUNAMCHAND CASTE AHIR
YADAV, AGED ABOUT 57 YEARS, OCCUPATION:
N.A. BARWANI (MADHYA PRADESH)**
- 3. GAJANAND S/O MANGILALKUMRAVAT, AGED
ABOUT 51 YEARS, OCCUPATION: N.A. MULTHAN,
TEH. KASRAWAD DISTT. KHARGONE (MADHYA
PRADESH)**

.....RESPONDENTS

***(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL
STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR
THE RESPONDENT [R-2-3].***

CRIMINAL REVISION No. 1471 of 2021**BETWEEN:-**

**BRANCH MANAGER JILA SEHKARI KENDRIYA BANK
BRANCH RAJPUR (MADHYA PRADESH)**

.....PETITIONER

(SHRI ANOPAM CHOUHAN, LEARNED COUNSEL FOR THE PETITIONER)

AND

- 1. THE STATE OF MADHYA PRADESH STATION
HOUSE OFFICER THROUGH P.S. RAJPUR
(MADHYA PRADESH)**
- 2. RAJARAM S/O PUNAMCHAND, AGED ABOUT 57
YEARS, OCCUPATION: NA BARWANI DIST
BARWANI (MADHYA PRADESH)**

3. **GAJANAND S/O MANGILAL KUMRAVAT, AGED ABOUT 51 YEARS, OCCUPATION: NA MULTHAN TEHSIL KASRAWAD DIST KHARGONE (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI RAJESH JOSHI APPEARING ON BEHALF OF ADVOCATE GENERAL STATE & SHRI NARENDRA SINGH RATHORE, LEARNED COUNSEL FOR THE RESPONDENT [R-2-3].

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These revisions coming on for hearing this day, and after hearing the counsel for the parties, the court passed the following:

ORDER

1. All the revisions petitions are being heard analogously arising out of the similar nature, issues, transactions and parties, they are being heard analogously and are being decided with the common order.

2. In all the revisions petitions the date of the impugned orders as well as passing authority and parties are same however, only the case numbers are different, but as all the petitions are being decided with this common order, the same shall be treated as intact as mentioned in respective cases.

3. For the sake of convenience, the facts are being taken from Criminal Revision No.321/2021 and all the findings of this Court shall be applied in all respective petitions.

4. Heard on I.A. No.1537/2021, an application under Section 5 of the Limitation Act.

5. The revision petition is barred by 100 days.

6. Learned counsel for the petitioner submits that the impugned orders were passed during the period of lock down and the present revision petition was filed in 2021, therefore, the petitioner could not approach within time, hence prays for condonation of the delay.

7. In view of the aforesaid submissions made by counsel for the

petitioner as well as in view of the reasons assigned in the application, the same is allowed and delay stands condoned.

8. Consequently, all the applications for condonation of delay filed in respective cases, if any stands allowed and delay, if any stands condoned.

9. The petitioner/bank through its authorized signatory has filed the present petition being aggrieved by judgment dated 07.09.2019 passed in CRA No.147/2018 by Session Judge, Barwani, District Barwani whereby the learned appellate Court has affirmed the judgment and order dated 07.09.2018 passed in Criminal Case No.195/2009 by JMFC, Rajpur, Barwani acquitting respondent nos.2 and 3 from the charges under Sections 420, 409, 467, 468 and 471 of IPC. Hence, the present petition before this Court.

10. Brief facts of the case are that on 05.10.2000, the complainant Saifuddin lodged a report against the respondents by stating that the petitioner/bank has its branches in districts Khargone and Barwani. The respondents were working on the post of clerk in a branch situated at Rajpur, District Barwani, the respondents are governed under the employment of M.P. Co-operative Societies Act, 1960 and were working as public servant from 01.01.1998 to 31.12.1998. During the said period, it is alleged that the respondents, being clerk of the banks received the amount of depositors, but not deposited the same in their respective bank accounts and only false and fabricated entries including the deposition of interest have been mentioned in the pass books of the depositors/account holders. The respondents have neither deposited the amount in the account of bank nor in the accounts of account holders/depositors. Hence, the police has lodged the FIR against the petitioner at Police Station Rajpur under sections 420, 409, 467, 468 and 471 of IPC.

11. Thereafter, after following the due procedure of law and due investigation, the charge-sheet has been filed.

12. The learned trial Court, after appreciation of the evidence available on record, acquitted the respondents from the charges under Sections 420, 409, 467, 468 and 471 of IPC vide orders dated 07.09.2018.

13. Being aggrieved by the aforesaid order of acquittal dated 07.09.2018 passed by the learned trial Court, the petitioner/bank has filed the appeal before the learned first appellate Court and vide the impugned judgements dated 07.09.2019, the learned appellate Court dismissed the appeal filed by the petitioner and affirmed the order of acquittal passed by learned trial Court. Hence, the respective revision petitions have been filed by the petitioner/bank before this Court.

14. Learned counsel for the petitioner/bank submits that the impugned judgments passed by learned courts below are contrary to law and facts on record. The learned trial Court has erred in acquitting the respondents whereas the specific role has been attributed to the respondents. It is further submitted that the learned trial Court has erred in not appreciating the fact that Maltibai (PW-2) has stated in her statement she knows the accused persons because she was having a saving account in the bank account in which she has a fixed deposit and in this regard, a false receipt has been given to her. Further, similar allegations have been leveled by Draupadibai (PW-3) Suresh (PW-6), Lacchiram (PW-7), Girdharilal (PW-13) & Trilokibai (Pw-21), but even after such statements of the witnesses, the learned trial Court acquitted the respondents when the charges are proved. It is further submitted that the learned Courts below have not appreciated the evidence and acquitted the respondent nos.2 and 3 even after specific allegations and material against them

on record. Hence, prays for setting aside the impugned orders and prays for conviction of the respondent nos.2 and 3.

15. On the other hand, learned Counsel for the State has also supported the contentions of learned counsel for the petitioner, but learned counsel for the respondent nos.2 and 3 has opposed the prayer made by counsel for the petitioner and submits that the learned trial Court as well as learned first appellate Court have well appreciated the evidence available on record and acquitted respondent nos.2 and 3 after considering each and every aspect of the case. It is also remonstrated that provisions of Section 401(3) of Cr.P.C., this Court cannot convert the finding of acquittal into one of conviction. Hence, no interference is required and prays for dismissal of the petition.

16. I have heard the learned counsel for the parties and perused the record.

17. Having heard the learned counsel for the parties, the question for determination is as to whether this Court in exercise of revisional jurisdiction can set aside the order of acquittal and convert the same into findings of conviction?

18. From the face of record, it is an admitted position that respondent nos.2 and 3 have been acquitted by the learned trial Court and the order of acquittal has been affirmed by the learned appellate Court. Being crestfallen by that order, this criminal revision has been filed before this Court under Section 397 r/w 401 of Cr.P.C.

19. Before dwelling on the point, it would be appropriate to quote the respective provision prescribed under Section 401(3) of Cr.P.C. as under:

18. The provisions of Section 401 (3) of Cr.P.C. provides

as under:

"(1)....

(2).....

(3) Nothing in this section shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction."

20. Nevertheless, the provision predicated under 401(5) of Cr.P.C. mandates that if High court is satisfied that the revision petition was made under erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice to do so, the High Court may treat the application for revision as an appeal and deal with the same accordingly. In the case at hand, since an appeal has already been filed by the petitioner as well as by the State against the order of acquittal passed by the learned trial Court, the remedy of appeal is not available for the petitioners against the order of learned appellate Court affirming the finding of learned trial Court.

21. Now, the scope of revisional jurisdiction is also required to be ruminated. On this aspect, **In Kaptan Singh and others vs. State of M.P. and another, AIR 1997 SC 2485 = II (1997) CCR 109 (SC)**, the Hon'ble Supreme Court considered a large number of its earlier judgments, particularly **Chinnaswami vs. State of Andhra Pradesh, AIR 1962 SC 1788 ; Mahendra Pratap vs. Sarju Singh, AIR 1968, SC 707; P.N. G. Raju vs. B.P. Appadu, AIR 1975, SC 1854 and Ayodhya vs. Ram Sumer Singh, AIR 1981 SC 1415** and held that revisional power can be exercised only when "there exists a manifest illegality in the order or there is a grave miscarriage of justice".

22. In **State of Kerala vs. Puttumana Illath Jathavedan Namboodiri (1999) 2 SCC 452**, the Hon'ble Apex Court held as under:

“In Its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. 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 re-appreciate 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.

23. In **State of A.P. vs. Rajagopala Rao (2000) 10 SCC 338**, the Hon'ble Apex Court held as under:

“The High Court in exercise of its revisional power has upset the concurrent findings of the Courts below without in any way considering the evidence on the record and without indicating as to in what manner the courts below had erred in coming to the conclusion which they had arrived at. The judgment of the High Court contains no reasons whatsoever which would indicate as to why the revision filed by the respondent was allowed. In a sense, it is a non-speaking judgment.”

24. In upshot of the aforesaid prepositions, this Court while using its revisional jurisdiction, has to examine that whether there is a manifest illegality in the judgment of the learned Courts below or there is miscarriage of justice.

25. At the outset, it would be noticed that there is no substratum whatsoever laid down by the petitioners in order to establish the prosecution case against the respondent nos.2 and 3. No concrete documentary evidence like original bank passbooks or receipts of depositing amount were produced before the learned trial Court. The statements of the complainants has not been recorded as they expired before recording of their statements. No hand writing expert has been examined in order to set up the fact that the said entries been have made by the respondents. Certainly, there are some complaints by the consumers of the bank and on that basis, an Audit Report was prepared and filed against the respondent nos.2 and 3. However, only on that basis, the offence punishable under Section 420, 407, 467, 468 and 471 of IPC can not be established beyond reasonable doubt.

26. Out of the aforesaid offences, the punishment under Sections 409 and 467 of IPC, is punishable by life imprisonment. It is well settled principle that wherever stringent punishment is provided, the standard of prove is also called for. Since the original passbooks and receipts of deposit have not been proved before the trial Court, only on the basis of oral evidence and complaints, no one can be convicted for misappropriation and forgery.

27. On this aspect, Hon'ble Apex Court ordained in **Malkhan Singh vs. State of Haryana [(2015) 12 SCC 247]** as under:-

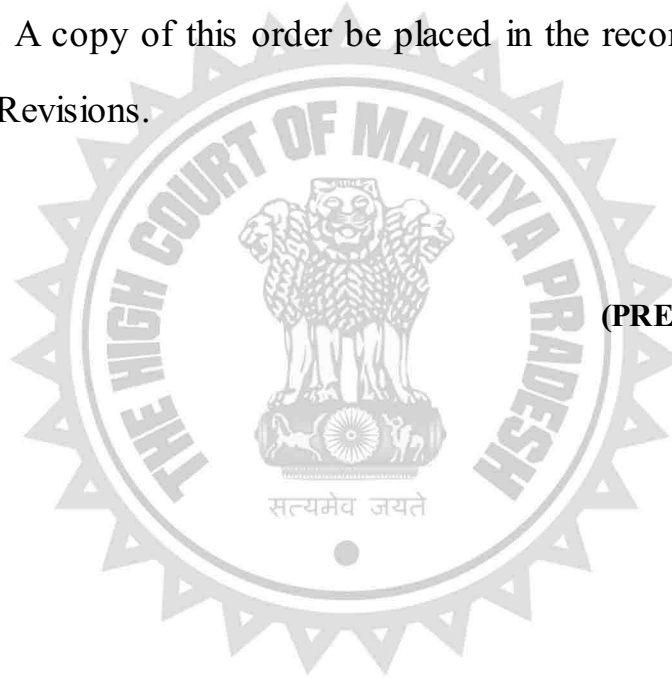
"16.....It is well settled principle of the criminal jurisprudence that more stringent the punishment, more heavy

is the burden upon the prosecution to prove the evidence....."

28. In the case at hand, the findings of learned trial Court as well as learned appellate Court are based on proper appreciation of evidence. Both the courts below have assigned clear, cogent and convincing reasons for acquitting respondent nos.2 and 3, therefore, in absence of any perversity in such findings, this Court, in its limited revisional jurisdiction, cannot be interfered with the conclusions rendered by the Courts below. Hence, the petitions fails and are accordingly rejected.

29. A copy of this order be placed in the record of all other connected Criminal Revisions.

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**(PREM NARAYAN SINGH)
JUDGE**