

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Appeal No. D-85-DB of 2015
Date of Decision : February 26, 2015

The Fatehabad Central Cooperative Bank Ltd.

....Appellant

Versus

Dariya Singh and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR SHEKHER DHAWAN

Present : Mr. C.R.Dahiya, Advocate
for the appellant.

T.P.S. MANN, J.

The appellant, at whose instance FIR No.104 dated 5.8.2005 under Sections 409/420/467/468/471 IPC was registered at Police Station, Bhattu Kalan against respondent-Dariya Singh, has filed the present appeal for challenging the judgment dated 4.10.2012 passed by Judicial Magistrate Ist Class, Fatehabad.

Vide impugned judgment, the trial Court acquitted respondent-Dariya Singh of the charges against him.

Having heard learned counsel for the appellant and on going through the impugned judgment, this Court finds that the prosecution has not been able to establish the posting of Dariya Singh in the Bhattu Kalan Branch of the Cooperative Society. There is also no material on the record that Dariya Singh has been dealing with the passbooks of relevant account holders or that he carried forward the entries in the ledger book of the Society. Even the entries in the passbooks and ledger book of the Society have not been compared with the handwriting of Dariya Singh. On the other hand, PW-3 Ram Swaroop, PW-5 Gopal, PW-6 Chhotu Ram and PW-10 Balwant Singh did not support the case of the prosecution. Even after getting the said four witnesses declared hostile, the prosecution while cross-examining them, could not bring any material on the record to show the complicity of Dariya Singh in the commission of crime, rather these witnesses exonerated Dariya Singh of the criminal liability.

Though the prosecution claimed that there was an audit report prepared in the year 2003, as per which an amount of Rs.1,06,600/- was outstanding against Dariya Singh, yet said audit report has not been brought on the record by the prosecution nor any member of the audit team produced before the trial Court. Even the Inspector of Cooperative Society, Bhattu Kalan, who had prepared the enquiry report holding Dariya Singh guilty of certain embezzlements, has not been examined by the prosecution.

In view of the above, no fault can be found with the

impugned judgment of acquittal passed by the trial Court while acquitting Dariya Singh accused of the charges against him.

Resultantly, the appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(SHEKHER DHAWAN)
JUDGE

February 26, 2015
pds.