

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.A-269-MA of 2013 (O&M)

Date of decision: 12th October, 2015

Bachan Singh

...Applicant

Versus

Kewal Krishan

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Neeraj Gupta, Advocate,
for the applicant.

Mr. Rishi Nijhawan, Advocate,
for the respondent.

INDERJIT SINGH, J.

Applicant Bachan Singh has preferred the instant application under Section 378 (4) Cr.P.C. challenging respondent Kewal Krishan for grant of leave to file the appeal against the impugned judgment dated 20.02.2013, passed by the learned Sub Divisional Judicial Magistrate, Guhla, vide which the respondent has been acquitted.

It is stated in the application that accompanying appeal is filed which is likely to succeed. The impugned judgment is patently illegal, ultra-vires, void and without jurisdiction. It is prayed that leave be granted to the applicant to file appeal against the respondent.

Brief facts of the case are that Bachan Singh complainant-applicant (hereinreferred as 'the complainant') filed a complaint against accused Kewal Krishan, Hans Kumari, Raj Kumari and

Chander Kanta under Sections 192, 420, 467, 468, 471, 120-B IPC. In the said complaint, it is stated that Kewal Krishan is owner of the land measuring 48 kanals 8 marlas and complainant being tenant has been cultivating the said land since 1975. It is further stated in the complaint that he is giving 1/4th share of the yield as 'batai' to the owner. It is stated that accused Kewal Krishan alongwith Hans Kumari, Raj Kumari and Chander Kanta and others. filed an application for 'batai' against the complainant for which the 'batai' was given in the name of all the accused and other persons, who were party to the suit. The accused party had fabricated a false evidence in the Form of form 'L' and made themselves as party. They caused such false entry/statement to appear in evidence in a judicial proceedings before a public servant and made the public servant to form an opinion against the complainant. It is also stated that Hans Kumari, Raj Kumari and Chander Kanta were not the owners of the said land and accused Kewal Krishan is having small share but still he filed a suit for whole land for getting a wrongful gain for which he had no right, title or interest. It is further stated that forgery and cheating came to the knowledge of the complainant only on 29.07.2005 when Halqa Patwari gave his report. It is stated that accused played a fraud by deceitful means dishonestly with malafide and common intention to obtain the benefit of 'batai'.

The learned trial Court, on the basis of evidence, acquitted the respondent of the charge under Section 420 IPC vide judgment

dated 20.02.2013. The co-accused had already been discharged.

Aggrieved against the impugned judgment, the applicant has preferred the instant application.

At the time of arguments, learned counsel for the applicant contended that an amount of Rs.84,185/- was deposited as lease money/'batai' as per the orders of the Court and same was withdrawn by accused Kewal Krishan alone whereas the said amount was for all the co-sharers/co-owners.

On the other hand, learned counsel for the respondent contested the instant application.

I have heard learned counsel for the applicant as well as learned counsel for respondent and have gone through the record.

Perusal of the record especially the impugned judgment shows that there was no inducement by accused Kewal Krishan to complainant. Accused Kewal Krishan alongwith other persons filed a suit for recovery of lease money as Batai. The complainant had deposited the amount in the Court as per the order of the Court. There is no averment in the complaint that complainant is lessee of some other persons also. Rather the case of the complainant is that on 29.07.2005, he came to know the fact that there are other persons who are also co-owners. Accused Kewal Krishan had withdrawn the amount of batai, as per order from the Court. If the complainant has any grievance, he can avail the remedy by way of filing appeal, revision etc. before the Higher Court against that order

of withdrawal of amount. No other co-owner has claimed any share from the complainant nor the complainant has paid any other amount to any other co-owners.

Keeping in view the facts and circumstances of the case, this Court finds that the findings returned by the learned trial Court are as per evidence and law. Nothing has been pointed out as to how the findings returned by the learned trial Court are perverse. Nothing has been pointed out as to which evidence has been misread and which material evidence has not been considered by the learned Court below. As such, no ground to grant leave to the applicant to file appeal is made out.

Therefore, finding no merit in the present application, the same is dismissed.

13th October, 2015
mamta

(INDERJIT SINGH)
JUDGE