

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-A No. 530-MA of 2013 (O&M)
Date of Decision: 19.3.2015

Zile Singh Chauhan

--Appellant

Versus

Rakesh Kumar & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Rohan Sharma, Advocate for
Mr. Vikram Singh, Advocate for the appellant.

TEJINDER SINGH DHINDSA.J

CRM No.35173 of 2013

In view of the averments made in the application, sufficient cause has been shown to condone the delay of 120 days that has occurred in filing the accompanying appeal.

Prayer is allowed.

Delay condoned.

Main Case

Instant application has been filed under Section 378 (4) Cr.P.C for grant of leave to appeal against the order dated 27.11.2012, passed by the learned A.C.J.M., Karnal, whereby the complaint filed by the present applicant Zile Singh Chauhan under sections 420, 389, 506, 120-B I.P.C against the respondent herein, has been dismissed.

Counsel for the applicant/appellant has been heard at length.

Briefly noticed, complaint against the respondents herein was lodged on the allegations that the complainant was owner in possession of plot measuring 35 sq. yards, Khewat No.1238 situated at Ranwar Road, Karnal and an agreement to sell was executed in respect of such plot by the

complainant in favour of respondent no.1 namely Rakesh Kumar on 24.4.2006 in the presence of respondent no.2 i.e. Hari Singh for a total sale consideration of Rs.2,50,000/- and out of which amount of Rs.50,000/- was received towards earnest money and the date of execution of the sale deed was fixed as 25.4.2006. It was alleged that the accused persons/respondents herein having hatched a conspiracy and with an intention to cheat the complainant got the sale deed executed in favour of Smt. Lakshmi Devi by stating that stamp duty can be saved and accordingly the consideration amount reflected in the sale deed was Rs.86,000/-. It was alleged that possession of the plot was however handed over to respondent no.1 i.e. Rakesh Kumar. Further allegation is that Rakesh Kumar started issuing threats to the complainant that he was in possession of the agreement to sell in his favour and unless he is given Rs.2 lacs he would file a criminal case against the complainant and accordingly an amount of Rs.2 lacs was furnished to respondent no.1 Rakesh Kumar but deliberately a receipt of only Rs.1 lac was issued. Against the backdrop of such allegations the complaint was filed as regards hatching of a criminal conspiracy and in cheating the complainant by extorting an amount of Rs.2 lacs under threat of life.

The complainant had examined Ram Kumar as CW-1. Complainant further deposed before the court that *Tehrir* Ex.C-1 was written in his presence reflecting only an amount of Rs.1 lac as opposed to Rs. 2 lacs having been furnished to Rakesh Kumar, respondent no.1.

The Trial Court has dismissed the complaint by observing that the complainant did not even examine the scribe of Ex. C-1 and furthermore took notice of the fact that even though, the alleged amount of

Rs.2 lacs had been paid on 20.4.2006, yet, the complaint was filed only on 8.5.2007 and the delay of more than one year had gone unexplained. Trial Court further observed that no evidence had been adduced on record to substantiate the allegations.

Counsel for the appellant has failed to show any error of law or of facts on the basis of which interference can be made by this Court in the order under challenge.

In the case of **State of Rajasthan Vs. Shera Ram @ Vishnu Dutta, 2012 (1) S.C.C., 602** the Hon'ble Supreme Court had opined as under:-

“There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion of this court is that there is no substantial difference between an appeal against conviction and an appeal against acquittal except that while dealing with an appeal against acquittal the court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the High Court is reasonable one and the conclusion reached by it had its grounds well set out on the materials on record, the acquittal may not be interfered with.”

This Court is of the considered view that the impugned order has been passed on valid and cogent reasoning.

As such, the instant application for leave to appeal is dismissed.

Consequently, even the accompanying appeal is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

19.3.2015
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