

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

CRM-A-770-MA of 2013 (O&M)

Date of decision : 19.11.2015

Chander Bhan

...Petitioner

Versus

Bagga Singh and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R. K. Bansal, Advocate for the applicant-appellant.

Mr. P. S. Sekhon, Advocate for the respondents.

JITENDRA CHAUHAN, J. (Oral)

This appeal is directed against the impugned judgment dated 01.06.2013 passed by the learned Sub Divisional Judicial Magistrate, Guhla whereby the respondents were acquitted from the charges framed against them under Sections 406, 420, 506 of the Indian Penal Code (for short 'the IPC').

The applicant-appellant had alleged cheating by the respondent on the pretext of sending his brother-in-law to America on work permit.

However, instead of sending him to America, they sent him to Indonesia and kept him as a hostage there for one year. The amount of Rs.9.5 lacs charged for sending him to the United States of America has also not been refunded. He submits that while passing the impugned judgment, the trial Court ignored this material fact.

On the other hand, the learned counsel for the respondents submits that the trial Court has rightly acquitted the respondents after considering the entire facts and circumstances of the case. He further contends that there is delay of more than 1 year and 8 months in filing the complaint. There is no documentary evidence on record to show that how he has arranged Rs.9.5 lacs and paid to the respondents for the alleged purpose.

I have heard the submissions of the learned counsel for the parties and have carefully gone through the record with their able assistance.

The trial Court has rightly acquitted the respondents as the applicant-appellant did not produce any record or evidence to prove that the alleged amount was entrusted to the respondents and has further failed to show the origin or source of the income. The circumstances to show as to how he has arranged Rs.9.5 lacs, allegedly paid to the respondents have also not been brought on record.

It is a settled law as has been held in *C. Antony Vs. K.G. Raghavan Nair*, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the

acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

Keeping in view the above, the finding of acquittal recorded by the trial court cannot be said to be perverse or contrary to the material on record. In fact there is no infirmity in the reasoning assigned by the trial court for acquitting the respondents, this Court feels that the learned Sub Divisional Judicial Magistrate, Guhla, has passed the impugned judgment dated 01.06.2013 after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the leave to appeal stands declined.

Dismissed.

19.11.2015

ashok

(JITENDRA CHAUHAN)
JUDGE