

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-1026-MA of 2014

.....

Date of decision:10.12.2015

Jarnail Singh

...Applicant

v.

Lakhwinder Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Matvinder Singh, Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Lakhwinder Singh, Surjit Kaur and State of Punjab-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 22.3.2014 passed by learned Sessions Judge, Patiala.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 22.3.2014 passed by learned Sessions Judge, Patiala, which is likely to succeed on the grounds mentioned therein. Therefore, it has been prayed that the leave to file appeal be granted and the appeal be heard on merits in the interest of justice, equity and fair play.

I have heard learned counsel for the applicant and have gone through the record specially the impugned judgment passed by the learned Sessions Judge.

The brief facts of the case are that Jarnail Singh-complainant filed a complaint for the offences under Sections 306 and 120-B IPC against his brother-in-law (sister's husband-Lakhwinder Singh) and sister Surjit Kaur on the allegation that the complainant has three brothers, namely, Mehal Singh, Gurnam Singh and Satnam Singh and two sisters, namely, Gurmeet Kaur and Surjit Kaur-accused. All the brothers and sisters are married and living with their own families. Surjit Kaur is married with Lakhwinder Singh and has been residing at Village Dera Alipur, Tehsil and District Patiala. Inder Singh father of the complainant in September 2005, while he was residing with his daughter Surjit Kaur at Village Alipur entered into an agreement to sell his agricultural land measuring 21 Kanals with a person of Bhago Majra near Chandigarh and received a sum of ₹8 Lacs as earnest money which was deposited in his saving bank account by Inder Singh. Thereafter, Lakhwinder Singh and his wife Surjit Kaur hatched a conspiracy to embezzle the amount and persuaded him to invest the amount in the fixed deposit scheme with a view to earn more interest. As such an amount of ₹8 Lacs was withdrawn in three instalments from the Bank under the signatures of Inder Singh by taking advantage of his illiteracy and old age. After few days, when Inder Singh inquired from Lakhwinder Singh about the place where the fixed deposit has been got done, the accused got infuriated and forced Inder Singh to leave their house.

As such, he returned to his village. The complainant and his brothers were astonished to hear whole episode from their father and they requested Lakhwinder Singh and Surjit Kaur to return the money belonging to their father, which has been embezzled by them but in vain. The complainant stated that Inder Singh remained upset over the behavior of both the accused and ultimately filed a complaint against the accused persons on 29.3.2006 with Police Station, Julkan to take legal action against them besides, seeking the refund of the money. On 10.5.2006, Inder Singh went to village of the accused persons to get the refund of embezzled amount from the accused and on the way at Village Bhunerheri met Hardial Singh and told him that he was going to the house of Lakhwinder Singh and Surjit Kaur. On the fateful day, the complainant had gone to some other village and when he returned and enquired regarding the whereabouts of Inder Singh from his wife, she told him that he had gone to Village Alipur and learnt that his father had consumed sulphas tablet as accused persons had failed to refund his amount and he had been removed to Rajindra Hospital, Patiala by the accused in unconscious condition. The complainant reached the hospital and came to know that his father was no more.

After appreciating the evidence produced by the complainant as well as the accused, the accused have been acquitted for the offence under Section 306 IPC by the learned Sessions Judge vide judgment dated 22.3.2014.

A perusal of the record specially the judgment shows that the trial Court after scrutinizing the evidence held that Jarnail Singh-

complainant PW-1 in September 2005, he as well as his father Inder Singh, had sold the land measuring 21 Kanals whereas he and his brothers Satnam Singh and Mehal Singh had sold 12 Killas of land to Jarnail Singh and others of Bhago Majra and Inder Singh had received earnest money of ₹8 Lacs. The Court held that the amount was deposited in the State Bank of Patiala, Devigarh, Tehsil and District Patiala. PW-3 R.K. Jain, Branch Manager produced the record. All this amount had been withdrawn by the account holder and thumb impressions are there on the slip. The amount had been withdrawn on several occasions and not on one date. Withdrawal had been over a period of about three months. It is the case of the complainant that after some time Inder Singh came to them and told about all this. The occurrence took place in May 2006. An application was given to the Police on 29.3.2006. The Court held that this application Mark-A has not been proved as per law. The Court also held that FIR No.18 dated 29.1.2006 was registered at Police Station Julkan, which is Mark-R.1. After scrutinizing the evidence, it was found that it was a family dispute regarding payment of money. No further action in the matter was taken. In the defence, the Court also taken note of recording of FIR No.18 and FIR No.290 against his own sons. Inder Singh had also filed complaints against Harcharan Singh and Gurnam Singh challenging the sale deed Ex.DW.7/A. The Court after discussing the law as well as the evidence on record held that the abetment is not proved. There is nothing to show that the accused had deprived the deceased of substantial amount of ₹8 Lacs by playing fraud upon him or as such had created circumstances that forced the

deceased to end his life. It is also discussed by the learned Sessions Judge that there is gross delay in filing the complaint, inasmuch as, the deceased had died on 10.5.2006. Thereafter, a complaint was filed but the Police had not taken any action finding no merit in the application. This private complaint was filed on 11.8.2008, after a period of more than two years and a reasonable doubt exists in the prosecution version.

Keeping in view the reasoning given by the learned Sessions Judge, I find that the reasoning have been given after appreciating the evidence in right perspective. Nothing has been pointed out which material evidence has not been considered by the Court or which material evidence has been misread by the Court. Nothing is there to show that the findings given by the Court below are perverse or against the law.

Therefore, from the above, I do not find any ground to grant leave to file appeal. Hence, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

December 10, 2015.

(Inderjit Singh)
Judge

hsp