

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.21507 of 2015
and
Criminal Misc. No.A-1117-MA of 2015 (O&M)

.....

Date of decision:2.9.2015

Raj Kishore

...Applicant/Complainant

v.

Ranbir and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vivek Singla, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.21507 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 489 days in filing the criminal miscellaneous application for grant of leave to appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-1117-MA of 2015 (O&M):

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Ranbir and Ram Kumar Dhankhar-respondents praying for the grant of leave to appeal against the judgment of acquittal dated 23.10.2013 passed by learned Sub Divisional Judicial Magistrate, Ganaur.

It is mainly stated in the application that the accompanying appeal is being filed against the judgment dated 23.10.2013 passed by learned Sub Divisional Judicial Magistrate, Ganaur, which is likely to succeed on the grounds mentioned in the appeal. The impugned judgment has been passed on the basis of untenable and fanciful findings, which are contrary to law and evidence on the record and are perverse and have resulted in failure of justice and deserves to be set aside.

From the record, I find that Raj Kishore-complainant filed complaint against Ranbir and Ram Kumar Dhankhar for the offences under Sections 406, 417, 418, 420, 423, 468 and 506 IPC on the allegation that the complainant had purchased a plot measuring 16 Marlas falling out of total land measuring 13 Kanals 2 Marlas from Mahabir Parsad vide sale deed dated 9.11.2001. Ashok Kumar son of Mahabir Parsad, who was owner to the extent of 29 Marlas of land giving power of attorney to Ram Kumar sold to accused Ranbir, who sold areas about 14 Marlas to various persons.

It is argued that the accused persons in collusion with each other sold the excess land and jointly committed breach of trust by cheating etc. The learned Sub Divisional Judicial Magistrate, Ganaur, vide judgment dated 23.10.2013 after considering the evidence acquitted the accused.

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

Admittedly, the total land measuring 13 Kanals 2 Marla was a joint land. The complainant had purchased the property from one Mahabir Parsad and there is no allegation against Mahabir Parsad that he sold the

property in excess of his share. There is no dispute regarding the property owned by the complainant on the basis of sale deed which was executed by Mahabir Parsad. It is in the evidence that the complainant is in possession of the property owned by him. There is no allegation by Ashok Kumar son of Mahabir Parsad against his attorney Ranbir that he had sold the property more than share owned by him nor there is any grievance to Ashok Kumar against Ranbir his attorney that he had misused the power of attorney. Even if it is taken that Ranbir had executed the sale deed in excess of the share to the extent of 18 Marlas, then the vendee of that sale deed is the person who has been cheated. So, from the perusal of the complaint itself no case is made out to show that the complainant has been cheated by the accused persons. The charge framed against the accused was for the offence under Section 420 read with Section 120-B IPC. The learned Sub Divisional Judicial Magistrate after discussing all these facts correctly acquitted the accused/respondents. There is nothing on the record to show that the findings recorded by the learned Sub Divisional Judicial Magistrate are perverse nor there is anything that the Court has misread the material evidence nor anything is pointed out at the time of arguments that any material evidence has not been considered by the Court.

Therefore, from the above discussion, I do not find any ground for grant of leave to file appeal. Hence, finding no merit in the criminal miscellaneous application seeking leave to appeal, the same is dismissed.

September 2, 2015.

(Inderjit Singh)
Judge

hsp