

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1156-MA of 2015

Date of Decision : September 01,2015

Jatinder Arora

.....Applicant

VERSUS

Dr. Pavittar Kumar Bawa and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. Swapanh Shaorey, Advocate

T.P.S. MANN, J.

Complainant Jatinder Arora, through his attorney Gurmukh Singh, has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 21.8.2014 passed by the Judicial Magistrate 1st Class, Amritsar whereby both the accused, i.e. respondents No.1 and 2 stand acquitted of the charges under Sections 420/467/471/120-B IPC.

In brief, the complainant's case is that the two accused, namely, Dr. Pavittar Kumar Bawa and Shashi Bala, were owners in possession of Kothi No.11 min. bearing khasra No.102/8-9 min. having area of 125 sq. yards. Accused Dr. Pavittar Kumar Bawa assured the complainant that they had purchased the aforementioned property from Neelam Rani for valuable consideration of Rs.85,000/- vide registered sale deed dated 19.4.1995, whereas accused Shashi Bala had purchased the same from Surinder Rani for valuable consideration of

Rs.85,000/- vide registered sale deed dated 19.4.1995. In both the sale deeds executed in favour of the accused, there was recital that the previous vendors had got the same in a family partition and they had become owners of the same. The complainant requested the accused to show him the revenue record. Both the accused assured the complainant that they had thoroughly inspected the revenue record while purchasing the same and they would show the revenue record at the time of execution of the sale deed in favour of the complainant. Accordingly, the complainant agreed to purchase the same from both the accused for total consideration of Rs.21,00,000/-. Agreement to sell was executed in the presence of the attesting witnesses on 16.5.2006. The complainant had paid Rs.2,00,000/- as earnest money. It was agreed that the sale deed would be executed on 16.11.2006 after payment of balance sale consideration by the complainant. The complainant approached the bank for finance purposes for payment of balance sale consideration and fulfilled the formalities. However, as per the legal opinion obtained by the bank, there were discrepancies in the revenue record as well as the sale deeds executed in favour of the accused by the previous vendors of sale deeds dated 19.4.1995. As per the revenue record it was mentioned that part of the land was previously owned by Ashok Kumar, Joginder Kumar and Smt. Dwarka Devi, the two sons and widow of Das Raj and they had executed sale deed in favour of Surinder Rani and Neelam Rani vide mutation No.8122. Similarly vide mutation No.8920, Surinder Rani sold some land in favour of Shashi Bala and Neelam Rani sold in favour of Dr. Pavittar Kumar. Due to discrepancy in the revenue record, the bank

rejected the loan application submitted by the complainant. The complainant approached the accused and requested them to satisfy him about the revenue record but they failed to give any satisfactory reply. There was fraud played in execution of sale deeds by previous vendors in favour of both the accused and, therefore, the accused had not shown revenue record to him at the time of agreement to sell. In the revenue record it was also mentioned that accused Dr.Pavittar Kumar Bawa had purchased the plot from Neelam Rani and Neelam Rani had purchased it from Ashok Kumar and others but sale deed executed in favour of Neelam Rani by Ashok Kumar was not shown. Similarly, sale deed executed in favour of accused Shashi Bala was doubtful as sale deed by previous vendors Ashok Kumar and another in favour of Surinder Rani was not shown to the complainant. The name of accused Shahi Bala was recorded as Bala in the Jamabandis for the years 1995-96 and 2000-01. According to the complainant, both the accused, in connivance with one another, had procured forged documents and on its basis agreed to sell the property in favour of the complainant. They has also misappropriated the earnest amount of Rs.2,00,000/-. The complainant had also filed a suit for recovery of Rs.4,00,000/-, i.e. double the earnest amount.

Having heard learned counsel for the applicant and on going through the impugned judgment, this Court finds that though the complainant alleges that the accused had forged some document yet he did not place on record any such document and, thus, it is difficult to hold that the so called document is forged one. It is the case of the complainant that the accused cheated him by inducing him to hand

over Rs.2,00,000/- as earnest money while executing the agreement to sell a plot which was in their ownership. However, in the complaint as well as in his examination-in-chief, consistent case of the complainant was that the accused were owners and in possession of the property in question. As regards the discrepancies pointed out in the revenue record, it was required of the complainant to have checked all the revenue records which are public documents before entering into a transaction for purchasing property from the accused. Having not done so, he cannot now turn around to say that the revenue record was discrepant.

The evidence led by the parties has been thoroughly scanned by the learned trial Court. On appreciating the evidence, the trial Court was not convinced about the authenticity of the prosecution version. Accordingly, while giving the benefit of doubt, both the accused have been acquitted of the charges. After going through the various findings arrived at by the trial Court, this Court is of the considered view that no case is made out for any interference in the impugned judgment of acquittal.

Resultantly, the application is without any merit and, therefore, dismissed. Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

September 01, 2015
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