

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1190-MA of 2015
Date of Decision : September 15, 2015

Smt. Ginna Devi

....Applicant

VERSUS

Smt. Roshni Devi and another

...Respondents

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

Present : Mr. Jainainder Saini, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) of the Code of Criminal Procedure for the grant of special leave to appeal against the judgment dated 29.3.2014 passed by the learned Judicial Magistrate Ist Class, Hisar whereby complaint filed by her under Sections 467/468/471/420/120-B IPC has been dismissed and both the respondents acquitted of the charges against them.

It was the case of the complainant that House No.34, Bishnoi Colony, Hisar was previously owned and possessed by her father Major Thandi Ram. On the basis of decree dated 5.11.1985, her sister Dharmo Devi, who was also arraigned as accused alongwith the respondents and on account of her death, proceedings against her were dropped, came to own the above said house. The said decree was successfully challenged by the complainant by filing another suit. However, Dharmo

Devi was given a life interest in the said house with a rider that after her death, the complainant and her other sister Ramkali would own the house. On 16.9.1992, the house was partitioned between the complainant and her sister Ramkali. Despite the fact that Dharmo Devi was only having a life interest in the house and did not have any right to alienate or transfer the possession of the house to anyone and the civil Court vide order dated 16.9.1992 had restrained her from alienating the ownership and possession over the house, Dharmo Devi executed a registered release deed on 19.1.2001 in favour of her daughter Roshni Devi-respondent No.1 and, thus, caused a wrongful loss to the complainant. Roshni Devi's husband Subhash Chander-respondent No.2 was attesting witness of the said release deed. Accordingly, the complainant sought summoning of the respondents and Dharmo Devi.

Having heard learned counsel for the complainant/applicant and on going through the impugned judgment of acquittal, this Court finds that merely because Dharmo Devi was having a life interest in the house and she was in possession of the same, the execution of release deed by her did not induce anybody, including the complainant, to deliver any valuable security. Execution of release deed would, at the most, lead to civil consequences. In that regard the complainant did file the civil suit which was decreed in her favour and the release deed duly set aside. The action on the part of Dharmo Devi in executing the release deed cannot be said to be preparing of false document or forging any such document. In any case, Dharmo Devi had not cheated the

complainant in any manner. As regards Roshni Devi-respondent No.1, she was only a beneficiary under the release deed whereas Subhash Chander-respondent No.2 was attesting witness of the said deed but that by itself is not sufficient to infer that they had also the mens rea of forging and fabricating any valuable security and committing various offences for which they were charged by the trial Court.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

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

(T.P.S. MANN)
JUDGE

September 15, 2015
satish

(GURMIT RAM)
JUDGE