

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

CRM-A-1394-MA of 2015 (O&M)

Date of decision: 08.12.2015

Darshan Ram

...Applicant

Versus

Surinder Pal Singh @ Chhinder Pal Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Charanjit Sharma, Advocate for the applicant.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 378(4) of the Code of Criminal Procedure (for short 'Cr.P.C.'), the applicant has assailed the judgment dated 29.05.2015, passed by the Judicial Magistrate 1st Class, Samrala, whereby the accused (respondents herein) have been acquitted of the charges framed against them under Sections 499, 500 read with Section 120-B and 34 of the Indian Penal Code (for short 'IPC').

Learned counsel for the applicant contends that the learned trial Court has acquitted the accused without appreciating the fact that the respondents with mala fide intention and in conspiracy with each other had passed resolution No.5 dated 10.12.2003 against the applicant. Respondent No.1 was the sarpanch whereas respondents

No.2 and 3 were panches of Gram Panchayat. The post of lamberdar in the village was lying vacant on account of death of Mehta Ved Parkash Lamberdar and the process to fill up the said post was pending before the concerned authorities. The applicant was one of the candidates against the said post, so in order to defame the applicant, the respondents had passed the said resolution at the instance of Naginder Singh, who had also applied for the post of Lamberdar. However, the trial Court has failed to appreciate the above facts and acquitted the respondents in an arbitrary manner.

Heard.

This Court has perused the entire record. The learned trial Court has recorded that a lot of doubt exists in the mind of the Court regarding the genuineness of the version of the applicant. The applicant has alleged that he is person of good character and no criminal case or complaint was pending against him, whereas as per Ex.D1, a complaint against the applicant and his sons was filed by one Amrik Singh levelling the allegation of trespass. The applicant himself in his cross examination has admitted that proceedings under Section 107/151 Cr.P.C., were initiated against his sons. Further, CW1 Sukhwinder Singh, in his examination in chief stated that he identified the signatures of Sarpanch Surinderpal Singh and other panches on the above said resolution but in his cross examination, he failed to identify the signature by stating that the same was not passed in his presence.

CW-2 Zail Singh appears to be only a hearsay witness. Otherwise also, no previous grudge has been proved on record.

In these circumstances, 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 accused/respondents. 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 the accused's 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.

Accordingly, the leave to appeal stands declined.

Dismissed.

08.12.2015

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(JITENDRA CHAUHAN)
JUDGE