

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

CRM-A No.1426-MA of 2014(O&M)

Date of Decision: March 24 , 2015.

Chet Ram

..... APPELLANT (s)

Versus

Tarsem Chand and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Dhirinder Chopra, Advocate
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Appellant-complainant, Chet Ram being aggrieved of the acquittal of all the respondents by the learned Judicial Magistrate First Class, Patiala in the complaint filed by him under Sections 467/468/471/120B IPC has preferred the present appeal.

Appellant-Chet Ram through his Special Power of Attorney, Manwinder Singh filed a complaint dated 01.08.2006 against the respondents under Sections 467/468/471/120B IPC averring that he purchased a truck

bearing registration No.PB-11K-2322 from M/s Sundram Finance Company, Ludhiana for a sum of ₹4,25,000/- out of which an amount of ₹1,25,000/- was paid to M/s Sundram Finance Company and a sum of ₹3,00,000/- was got financed from respondent No.1 – Tarsem Chand who is sole proprietor of M/s Mamta Finance Company. Accused Tarsem Chand while advancing loan of ₹3,00,000/- had obtained Chet Ram's signatures on five or six blank stamp papers as well as blank cheques. Said blank stamp papers were purchased by Chet Ram in the months of September to November, 1998. After repayment of the entire loan amount, respondent No.1 – Tarsem Chand was not getting the entry in the Registration Certificate (RC) being corrected. He also tried to forcibly repossess the truck from appellant – Chet Ram.

Appellant – Chet Ram thereafter filed a suit for declaration and injunction at Patiala against respondent No.1, Tarsem Chand to the effect that he has become full owner of the abovesaid truck and nothing is due towards him. It is alleged that respondent No.1, Tarsem Chand while appearing in court in the abovesaid suit took a stand that Chet Ram had paid full and final amount of loan of ₹3,00,000/- but thereafter, appellant-complainant had taken a fresh loan of ₹3,80,000/- and executed an agreement dated 20.11.2000 in his favour.

As per the complaint once the amount of loan of ₹3,00,000/- stood repaid there was no occasion for Chet Ram to raise another loan of ₹2,80,000/- for a purpose mentioned 'nil'. Alleged agreement dated 20.11.2000 is stated to be a forged and fabricated one, drawn on blank papers taken from the appellant at the time of advancing the first loan. Said agreement is stated to be forged by the accused persons in conspiracy with each other.

All the accused were summoned by the learned trial court. Complainant examined as many as nine witnesses at the stage of pre-charge evidence. On finding a prima-facie case, all the respondents were charged for the commission of offences punishable under Sections 467/468/471/120B IPC. They pleaded innocence and claimed trial.

On consideration of the facts and circumstances as well as entire evidence on record, the learned trial court acquitted all the accused persons as the complainant failed to prove his case beyond reasonable doubt.

Learned counsel for the appellant vehemently contends that the learned trial court has ignored material evidence on record which points to the commission of offences as alleged by the appellant-complainant. While referring to Ex.C2 i.e., the agreement dated 20.11.2000 allegedly drawn up fraudulently by the respondents, he submits that spacing of the same proves it to be a forged and fabricated document. Reference is made to the testimony of Navdeep Gupta CW7, the handwriting expert, who has opined that the agreement in question has been prepared subsequently on a blank paper signed at an earlier stage by appellant-Chet Ram. It is further submitted that civil suit filed by the appellant though dismissed by the trial court has now been remanded on an appeal preferred by him. It is reiterated that there is overwhelming evidence on record which proves his case beyond reasonable doubt.

We have heard learned counsel for the appellant and gone through the record which has been requisitioned.

A glaring aspect in the instant case is the delay in filing of the

complaint. Agreement dated 20.11.2000 allegedly came to the notice of appellant-complainant after the filing of civil suit on 05.03.2001. However, the appellant chose to sit quiet for approximately over five years and filed the instant complaint on 02.08.2006. It is an admitted fact that respondent Tarsem Chand filed a suit for recovery of the amount as mentioned in agreement dated 20.11.2000. Appellant was thus aware of the entire facts but still he did not take any action. Present complaint was filed at a highly belated stage in the year 2006. Appellant never took any action for the return of the alleged signed blank papers or cheques nor complained about it for all these years. There is no reason or explanation at all, much less a cogent or sufficient one for the inordinate delay in the filing of complaint. It raises a serious doubt upon the veracity of averments made in the complaint and deals a severe blow to the complainant's case.

Much reliance has been placed upon the opinion of CW7 Navdeep Gupta, handwriting expert to urge that the agreement dated 20.11.2000 is a forged and fabricated document which has been drawn on blank signed papers procured from the appellant. It is argued that the spacing between the lines of the agreement points to the fact that it has been prepared on blank signed papers. A perusal of the testimony of CW7 Navdeep Gupta reveals that his opinion is based on a physical examination of the documents of loan. There is no forensic examination of the document in question which would reveal that it has been drawn subsequently and the appellant has appended his signatures at a prior point of time. Sole reliance on CW7 Navdeep Gupta's report to hold that agreement dated 20.11.2000 is a forged document is not called for in the facts

and circumstances of this case. For penal consequences to follow, it was incumbent upon the appellant/complainant to have proved the handing over of the blank stamp papers and cheques as well as the preparation of the agreement dated 20.11.2000 fraudulently by the accused. There is no corroboration of complainant's version from the evidence on record.

It has rightly been held by the trial court that the appellant cannot derive any benefit from the evidence of CW2 Surinder Kumar or CW3 Pardeep Kumar. CW2 Surinder Kumar has been examined to prove Income Tax Returns of respondent No.1, Tarsem Chand for the years 2005-20011. The documents pertaining to years 1998-2000 which are relevant in the present case have not seen the light of the day. In that regard, Ex.C6 is a certificate to the effect that the Income Tax Returns for the years 2001-2005 are not available in the office of ITO Ward No.3. Documents produced by witness CW3 Pardeep Kumar relate to an application filed by one Gurvinder Singh. It has no relevance to the matter in hand.

Similarly, appellant cannot derive any benefit from Inquiry Report CW5/A which pertains to the application filed by Gurvinder Singh against respondent No.1, Tarsem Chand. It does not, in any manner, improve the case of appellant-complainant to prove the commission of the offences as alleged by the respondent. Suspicion however strong can never take the place of proof. Complainant has to prove his case beyond reasonable doubt on the basis of clear and cogent evidence pointing to the guilt of the accused.

It has rightly been held by the trial court that the complainant has miserably failed to prove its case. Respondents have been acquitted vide a well

reasoned judgment based upon proper appreciation of the evidence on record as well as entire facts and circumstances of the case. Acquittal of the accused cannot be set aside only on there being a probability or possibility of another view in the facts and circumstances of the case. It is imperative that there must be strong, substantial and relevant considerations for interference in such a situation.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned judgment which would persuade us to interfere.

Consequently, this appeal is dismissed and impugned judgment dated 31.03.2014 passed by the learned Judicial Magistrate First Class, Patiala is upheld.

(HEMANT GUPTA)
JUDGE

(LISA GILL)
JUDGE

March 24 , 2015.
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