

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1853-MA of 2015

Date of Decision : December 15, 2015

Sumer Singh

.....Applicant

VERSUS

Rajbir Singh

.....Respondent

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

Present : Mr. Sandeep Thakan, 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 grant of special leave to appeal against the judgment dated 27.3.2015 passed by learned Judicial Magistrate 1st Class, Fatehabad whereby the respondent-accused stood acquitted of the charges under Sections 409, 420, 467, 468 and 471 IPC.

The case of the complainant, in nutshell, is that he is resident of village Chaubara and the accused remained the Sarpanch of the village from 2005 to 2010. During the period of 2008-09, he committed illegalities in the distribution of old age pension, widow pension and physically handicapped pension by

giving the same to ineligible persons. On 27.8.2009, the complainant filed an application before Deputy Commissioner, Fatehabad who marked the same for proper action to Additional Deputy Commissioner, Fatehabad. Thereafter, Additional Deputy Commissioner forwarded the application to District Social Welfare Officer, Fatehabad for inquiry. In report dated 5.10.2009, the District Social Welfare Officer, Fatehabad found the accused guilty of committing irregularities in distribution of pension. It also came out that accused committed embezzlement of Rs.60,300/-. The District Social Welfare Officer sent his report to Additional Deputy Commissioner, Fatehabad who forwarded the same to Deputy Commissioner, Fatehabad. Vide letter bearing No.5558/1 PA dated 27.11.2009, Deputy Commissioner charge-sheeted the accused under Section 51(3) of Panchayati Raj Act. Vide order bearing No.5562/65-PA, accused was suspended from the post of Sarpanch. Later on, the complainant filed complaint against the accused before Superintendent of Police, Fatehabad but no action was taken on the same. Then the complainant approached the High Court. In compliance of order dated 17.12.2010 passed by this Court, the complainant approached the Judicial Magistrate under Section 156 (3) Cr.P.C. The complaint was sent to concerned police station for registration of FIR. After investigation, the police filed cancellation report in the FIR bearing No.99 dated 28.5.2011.

Further case of the complainant is that being dissatisfied with the police proceedings, he filed protest petition. Thereafter, he led preliminary evidence and on its basis, the accused was summoned to face trial for the commission of offences punishable under Sections 409, 419, 420, 467, 468 and 471 IPC.

Having heard learned counsel for the complainant/applicant and on going through the impugned judgment, this Court finds that though the accused was alleged to have distributed widow pension to Khatoon, Lichhma and Chandro who were not entitled to receive the same yet not a single witness was examined by the complainant to prove the said fact. Further, Khatoon, Lichhma and Chandro did not step in the witness-box to state that they were not widows nor any such document was produced before the Court in that regard. As regards the accused distributing handicapped pension to Bhateri, Chiranji and Gina, though they were not handicapped and, thus, not entitled to handicapped pension yet there was neither any oral nor documentary evidence available on the record that they were not handicapped persons. Similarly, the accused was alleged to have embezzled an amount of Rs.2,500/- by distributing old age pension to Reshma whereas she had expired in September, 2009 but neither any death certificate of Reshma has been produced on the file nor oral evidence adduced in that regard. Similarly, no evidence was

adduced by the complainant that the accused had illegally distributed old age pension to Shariff. Moreover, the complainant did not take steps to get the signatures/thumb-impressions of Shimla, Basau Ram, Bimla and Badho Devi compared with those appearing in APR-cum-FEED BACK forms to establish that they were not those persons and their forms were forged by the accused. Merely because the accused had signed the APR forms is no proof of his guilt.

In view of the above, no case is made out for any interference in the impugned judgment whereby the accused stands acquitted of the charges against him.

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

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

December 15, 2015
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