

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-A-1834-MA-2014

Date of decision : 15.01.2015

Barhma Nand

... Appellant

Versus

Ballow and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Karan Singla, Advocate
for the appellant.

REKHA MITTAL, J.

The present appeal lays challenge to judgment dated 07.12.2011 passed by the Sub Divisional Judicial Magistrate, Charkhi Dadri whereby the accused-respondent No.1 has been acquitted of the offence punishable under Sections 420, 120-B of the Indian Penal Code (in short 'IPC').

Apart from the fact that the appeal is barred by limitation of 921 days, I do not find any reason to intervene.

The allegations against the accused are that they committed fraud with the complainant as they sold the property in question to the complainant vide affidavit Ex.P1 executed on 25.02.2002, received sale consideration but later the said property was sold by the accused to one Umed Singh son of Prahlad Singh vide sale deed executed in the year 2004 Ex.P2.

The learned trial Court, on appreciation of evidence, held that the prosecution could not prove dishonest intention of the accused at the

inception of transaction i.e. at the time when Ex.P1 was executed by the accused in favour of the complainant, while relying upon the judgment of this Court *Manisha Goyal Vs. State of Punjab, 2006(1) RCR (Criminal) 162*. It was concluded that the prosecution has failed to prove essential ingredients of offence of cheating defined in Section 415 IPC and it seems to be a civil dispute and eventually the accused was acquitted of the offence charged against her. Counsel for the appellant has failed to dispute these findings either being the result of misreading of evidence, misappropriation thereof or the trial Court having ignored any material evidence on record.

The scope of interference in a judgment of acquittal stands on a different footing than that of a judgment of conviction. As per settled position of law, no interference in exercise of power of appeal in a judgment of acquittal is warranted even if two views are possible on the same evidence adduced during trial. I do not find any error much less perversity in the findings recorded by the learned trial Court. In this view of the matter, the application for condonation of delay as well as application for leave to appeal are ordered to be dismissed. As a natural corollary, the appeal fails and is accordingly dismissed.

(REKHA MITTAL)
JUDGE

January 15, 2015.

DK