

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

CRM-A-1950-MA-2014 (O&M)

Date of decision : 04.09.2015

Perm Singh

...Petitioner

Versus

Satyavan @ Satta and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Chander Pal Tiwana, Advocate for the appellant.

Mr. Arun Luthra, AAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

CRM No.39462 of 2014

For the reasons contained in the application, the same is allowed and delay of 47 days in filing the appeal is condoned.

CRM No.39463 of 2014

CM is allowed and Annexures A-1 to A-5 are taken on record.

Main case

This appeal is directed against the impugned judgment dated 26.08.2014, passed by the learned Chief Judicial Magistrate, Kaithal whereby, the complaint filed under Sections 342/392/506 and 120-B IPC was dismissed and the accused-respondents were acquitted of the charges framed against them.

Brief facts of the case in hand, as recorded in the opening para of the impugned judgment, are reproduced as under:-

“1. The present complaint has been filed by the complainant against the accused on the allegations that he is a resident of village Dahola, District Jind and is a registered owner of jeep bearing registration No.HR-56-1765. On 26.11.2005, he had gone to village Majra Nand Karan, District Kaithal alongwith Jitenderpal @ Binder and Bhartha and when they were returning and reached near bus stand at about 11.00 AM, the accused Nos.1 and 2 took lift from him for Kaithal, However, on the way, the accused got the jeep stopped and forcibly pushed Binder and Bhartha out of the jeep and on gun-point, threatened the complainant to sit between them and directed him not to move. Thereafter, accused No.1 started driving the jeep and left the complainant near village Sangatpura, District kaithal, after giving him slaps and fists blows and also threatened to kill him if the matter was reported to the police. The documents of the ownership of jeep i.e. registration certificate and insurance etc. were also kept in the jeep. The complainant approached the Police Post Sangatpura and Police Station Rajound, but no action was taken against the accused and then tried at his own level to trace his vehicle but to no avail. On 29.11.2005, the accused Nos.1 and 2 met him and asked him to meet accused No.3. the complainant visited accused No.3 in his office along with Binder where accused no.3 along with two policemen were already present, who threatened him to sign some blank papers and on his refusal, they slapped him and got those papers forcibly signed from him and told him that they would sell the

said vehicle on the basis of those papers. The complainant had got above said jeep financed from accused No.4 on 28.06.2005 through accused no.3 for Rs.1,20,000/- and had paid Rs.42,000/- in cash, Rs.11,000/- for getting insured the vehicle and filed charges and remaining amount of Rs.67,000/- was deposited orally with the accused No.3 on the same day and it was agreed that the financed amount would be returned in installments of Rs.6600/- per month. The accused No.3 got issued four blank stamp papers and had also taken five blank cheques of State Bank of India as security of financed amount which were to be returned on the clearance of financed amount. The said jeep might be disposed off by the accused Nos.3 and 4 in violation of provisions of hypothecation and the accused are also threatening to convert the said blank cheques, blank signed stamp papers and other papers into valuable security wrongly and illegally. The complainant also got issued a letter through his brother to ascertain the amount due to the financed amount and was stunned to see an outstanding of Rs.1,04,600/- against him and this shows that accused Nos.3 and 4 have prepared false documents to create false liability and hence they are liable to be prosecuted. As the accused had committed the said offence, hence the present complaint.

2. *The complainant Prem Singh in his preliminary evidence has himself stepped into the witness-box as CW1 and also examined Jitender @ Binder as CW2 and Bhartha as CW3 and thereafter closed the preliminary evidence.*

3. *Taking into account preliminary evidence, accused were ordered to be summoned for the*

commission of offence punishable under Sections 342, 392, 506, 120-B of the Indian Penal Code. Subsequently, the accused Satyawar, Narender and Navraj (who is the sole proprietor of accused No.4) surrendered and were admitted to bail. The complainant was allowed to lead his pre-charge evidence and he examined Nirmala Devi as CW1, Ravinder Kumar as CW2, Mohan Dass as CW3, Nirata Ram as CW4, Sukhvir Singh as CW5, Ishwar Chand as CW6, Jitender @ Binder as CW7 and himself as CW8 and thereafter closed his pre-charge evidence.

4. *Taking into account pre-charge evidence and after hearing learned counsel for the complainant as well as learned defence counsel, a prima facie case under Sections 342, 392 and 120-B IPC was made out against the accused Nos.1 and 2 whereas prima facie case for commission of offence punishable under Sections 506 and 120-B IPC was made out against the accused No.3. Accordingly, the accused were chargesheeted, to which they pleaded not guilty and claimed trial and complainant was allowed to lead his after charge evidence. In after charge evidence, the defence counsel opted only to cross-examine, the defence counsel opted only to cross-examine CW7 Jitender and CW8 complainant Prem Singh and thereafter, after charge evidence of the complainant was closed.*

5. *The statement of accused under Section 313 Cr.P.C. was recorded wherein they denied all the allegations leveled against them and claimed innocence.*

6. *In defence, the accused have examined Rajpal as DW1, who has deposed that on 20.12.2005, he had purchased Mohindra MAX HR-56T-1765 from the complainant for Rs.1,65,000/- vide receipt Mark-E and*

the possession was also given to him by the complainant. Thereafter, upon completion of all relevant documents, the ownership was transferred in his name by the Registration Authority, Jind. In his cross-examination, he denied that he had prepared fraudulent documents in collusion with accused Nos.3 and 4.”

After appraisal of the documents, prosecution evidence and the defence evidence, the learned Chief Judicial Magistrate, Kaithal acquitted the respondents of the charges under Sections 342/392/506/120-B IPC.

Feeling aggrieved against the same, the appellant has filed the present application for the grant of special leave to appeal against the judgment dated 26.08.2014.

The learned counsel for the appellant contends that at the time of financing the jeep bearing registration No.HR-56-1765, the respondent No.3 had taken from the appellant four blank stamp papers and five blank cheques of State Bank of India duly signed by the appellant as a security for the financed amount. The respondents had illegally converted these blank stamp papers into valuable security. The ownership of vehicle was transferred in the name of one Raj Pal, DW-1 fraudulently by submitting the forged documents i.e.(Ex.PW1/C) affidavit of Raj Pal and (Ex.PW1/D) affidavit of the appellant before Registration Authority, Jind. He further submits that there are cuttings and manipulation in these documents/affidavits.

The learned counsel for the respondents submits that there is a delay of about two months in lodging the complaint but the reasons for the delay have not been satisfactorily explained by the appellant. He further

states that on 23.01.2006 the appellant had appeared in Rajound Police Station and an inquiry was conducted wherein it was found that the appellant had sold his jeep to DW1 Rajpal through M/s Chaudhary Motors.

I have heard the submissions of the learned counsel for the parties and have carefully gone through the record with their able assistance.

In this case, the appellant has failed to disclose the reasons on account of which the filing of the complaint was delayed. The appellant has neither explained as to how the respondent Nos.1 and 2 met him when they were not even known to him nor has he disclosed the location where they allegedly met him, which is a fatal weakness in his version. The appellant has not put any relevant documents or evidence on record to show that the respondents had fraudulently transferred the ownership of the vehicle in the name of one Raj Pal DW-1.

Keeping in view the above, this Court feels that the learned Chief Judicial Magistrate, Kaithal has passed the impugned judgment dated 26.08.2014, after appreciating the entire facts and circumstances of the present case and in the given set of facts the view taken by the trial Court does not not suffer from any illegality or perversity.

Accordingly, the leave to appeal stands declined.

Dismissed.

04.09.2015

ashok

(JITENDRA CHAUHAN)
JUDGE