

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. A-589-MA of 2014
Date of Decision: 04.2.2015.

Sunil

.....Applicant

Versus

Ramphal and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Munfaid Khan, Advocate for
Mr. Amit Kumar Jain, Advocate
for the applicant.

SABINA, J.

Respondents had faced trial in a complaint filed by the applicant under Section 419, 420, 323, 447, 506 of the Indian Penal Code, 1860 ('IPC' for short). Trial Court vide judgment dated 6.2.2014 ordered the conviction of the respondents under Section 323, 506 IPC. Vide order dated 10.2.2014, respondents were ordered to be released on probation. Hence, the present application under Section 378(4) of the Code of Criminal Procedure, 1973 praying for leave to appeal by the applicant-complainant.

I have heard the learned counsel for the applicant and have gone through the record available on the file carefully.

Case of the complainant, in brief, was that Devtia and Deiya were sons of Harjas. Deiya had only one son namely Ram Kishan who had died unmarried and issueless in the year 1995. Deiya had died in the year 1935. Sarupa, grandfather of the complainant, was the only legal heir of deceased Ram Kishan.

Devtia was grandfather of Balbir son of Sarupa i.e. father of the

complainant. Sarupa had died in the year 1997. Thus, Balbir Singh, father of the complainant and his uncle Hawa Singh and legal heirs of their brother Ishwar and complainant's aunts Dhanpati, Phoolpati and Murti had become owners in possession of the land measuring 81 kanals 10 marlas owned by Ram Kishan son of Deiya. Father of the complainant, uncle of the complainant and children of their deceased brother Ishwar, were cultivating the land. Accused Sunder and Sube Singh, in connivance with revenue officials, had got sanctioned mutation qua inheritance of Ram Kishan in their favour by showing Sunder as widow of Ram Kishan and Banti, Darshna, Roshani as daughters of Ram Kishan and Ramphal and Raghbir as sons of Ram Kishan. Accused Sunder was widow of Sube Singh and accused Raghbir, Ramphal, Banti, Darshna and Roshani are their children. Although, mutation was sanctioned in favour of the accused but they never remained in possession of the suit land. On coming to know about the sanction of mutation in favour of the accused in March 2000, complainant filed a civil suit for declaration and permanent injunction. On 19.5.2009, accused armed with *lathis* and *jellis* came to take possession of the suit property and caused injuries to the complainant. On 18.6.2009, accused destroyed the standing crop in the land in possession of the complainant. On 20.5.2009, accused got registered a false case against the complainant and others.

Learned Trial Court while ordering the acquittal of the respondents qua commission of offence punishable under Section 419, 420 IPC held that no evidence had been led qua cheating by impersonation by the accused. It was the case of the complainant that Ram Kishan had died unmarried and issueless. Respondents

by claiming themselves to be the legal heirs of deceased Ram Kishan, cannot be said to have committed offence of cheating. So far as offence under Section 447 IPC is concerned, complainant had failed to establish his possession over the suit property. On the date of occurrence, Civil Court had directed the parties to maintain status quo with regard to possession. Thus, there was no conclusive evidence on record to the effect that the complainant was in possession of the suit property. So far as offence under Section 323/506 IPC is concerned, the learned Trial Court had held that the respondents were guilty of commission of said offence. The learned Trial Court rightly exercised its jurisdiction while ordering the release of the respondents on probation while keeping in view their age, character and antecedents.

In the facts and circumstances of the present case, no ground is made out to grant leave to file an appeal.

Accordingly, this application is dismissed.

**(SABINA)
JUDGE**

February 04, 2015
Gurpreet