

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 14.07.2015

CRM-A-846-MA of 2014

Mohinder Allagh

...Appellant

Versus

Arun Oberoi & others

...Respondents

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

Present : Mr. T.S.Sangha, Senior Advocate, with
Mr. H.S.Sangha, Advocate, for the appellant.

Mr. Gautam Dutt, Advocate, for respondent Nos.1 to 4.

Mr. Vivek Saini, AAG, Haryana, for respondent No.5.

HEMANT GUPTA, J.

The present appeal is directed against an order dated 19.03.2014 passed by the learned trial Court dismissing the complaint filed by the appellant under Sections 420, 467, 468, 471, 427, 406 & 120-B IPC.

The appellant alongwith his brother namely Harish Chander claimed to be purchaser of plot bearing No.M-14, Industrial Area, Yamuna Nagar vide sale deed dated 07.06.1991 from M/s Jamuna Auto Industries Limited. Respondent Nos.2 & 3 are said to be owner of adjoining factory and running a firm under the name and style of M/s Unique Timber Works. The complainant has given the property i.e. M-14, Industrial Area, Yamuna Nagar for usage to respondent Nos.2 & 3 in respect of which a lease deed for the period from 01.10.1997 to 30.09.2001 was executed later on. Thereafter, respondent Nos.2 & 3 obtained signatures of the appellant on blank papers

under the guise of documents for extension of lease, but the same have been used for transfer of the title. On the basis of such transfer, the plot was transferred in the name of respondent No.1 without any notice to the appellant. Thus, the complaint sought to prove the allegations of forgery etc.

To prove his case, the complainant apart from examining himself as CW-3, examined CW-1 Surinder Kumar Madan, Chief Manager, Indian Overseas Bank; CW-2 Anil Sharma, Assistant Manager, HSIIDC & CW-4 Shamsheer Singh Kamboj, Advocate, District Courts Jagadhri.

On the other hand, the accused-respondents produced DW-1 Vijay Singh, Chief Manager, Indian Overseas Bank; DW-2 Sahil Goel and DW-3 Yash Pal Jain Handwriting and finger print expert in their defence.

After going through the evidence led, the trial Court examined three-fold submissions i.e. (i) that the accused have prepared a forged agreement to sell dated 19.12.2001; (ii) that on the basis of such forged agreement, the accused have got transfer deed of the suit property in favour of respondent No.1; & (iii) that the accused have also got issued an electric connection from Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) after preparing bogus documents.

While dealing with first submission, the learned trial Court noticed that the lease deed (Ex.CW2/B), was for the period from 01.10.1997 to 30.09.2001 and expired on 30.09.2001. The stand of the appellant is that thereafter accused Nos.2 & 3 obtained his signatures as well as of his brother on the blank papers on the pretext that said lease deed is to be extended for a period of another four years on an affidavit. However, such blank signed papers were later on forged into alleged agreement to sell dated 19.12.2001.

The trial Court also noticed that in his cross-examination, the complainant

(CW-3) has categorically admitted his signatures on the agreement to sell and that he executed the disputed documents in October, 2001. He also admitted that documents were already typed at the time of putting his signatures and he signed in good faith with the intention that the leased deed will be extended for another four years. He also admitted the signatures of his brother Harish Chander on the same document. The trial Court found that the complainant is not a rustic villager or an illiterate person, who do not understand the English language. Thus, it cannot be said that the complainant did not know the meaning of execution of a document or that he cannot differentiate whether he had put his signatures on blank papers or on a typed document. The learned trial Court also noticed the fact that Harish Chander, brother of the complainant, whose signatures appeared on the documents, has not been examined, as his testimony is material to find out whether he signed on blank paper or typed document. Still further, the trial Court found that the complainant never made any request to the accused persons to extend the lease period or to pay the lease money, as the stand of the appellant is that alleged agreement to sell came to his notice in March, 2007. Thus, if the accused persons were not paying the amount of lease money, he should have made a grievance of the same. The trial Court also relied upon the report (Ex.DW3/B) submitted by DW-3 Yash Pal Jain, hand-writing expert. In his report, DW-3 Yash Pal Jain opined that the signatures of the complainant and his brother are written on the typed matter i.e. after typing of the text of the agreement. Thus, the learned trial Court found that the appellant has failed to prove that the agreement to sell dated 19.12.2001 is result of fraud.

In respect of second submission, it was found that even the names of the appellant and his brother, having purchased the plot in question,

were not recorded in the records of the District Industries Centre, Industrial Area, Yamuna Nagar. Thus, there was no document on record available with the Industrial Centre regarding the ownership of complainant and his brother or qua the mortgage of the property in question with the Indian Overseas Bank. The trial Court also noticed that even Exs.DD and DE, produced by the complainant and stated to be No Objection Certificate given by the District Industrial Centre for taking of loan on property in question, have been proved to be bogus letters by CW-3 R.C.Bhatia.

In respect of last submission, the trial Court found that since the document was not found to be forged, the execution of the transfer deed dated 03.10.2002 for obtaining of electric connection was found to be not illegal.

We have heard learned counsel for the parties at length and found that the reasoning given by the learned trial Court is the possible reasoning on the basis of evidence on record. The appellant filed complaint alleging therein that his signatures were obtained on blank papers. However, in his cross-examination, the complainant had to admit that he signed a document, which was typed and that signatures of his brother also appeared on such document. The appellant has not examined his brother Harish Chander, as a witness, who could possibly say that he signed blank paper or not. The appellant himself has contradicted himself, when he admitted his signatures on a typed document. Still further, the appellant is a Commerce graduate. In his cross-examination, he admitted that he signed all the documents after going through the contents of the same. Thus, we find that in view of the statement of the complainant himself, the findings recorded by the learned trial Court cannot be said to be perverse or suffering from illegality.

Consequently, we do not find any error in the findings recorded by the learned trial Court, which may warrant any interference by this Court in the present appeal against acquittal.

Dismissed.

(HEMANT GUPTA)
JUDGE

14.07.2015
Vimal

(LISA GILL)
JUDGE