

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-917-MA of 2015

Date of Decision : October 06, 2015

Jabal Singh @ Jawahar Singh

....Applicant

VERSUS

Smt. Guddi and another

.....Respondents

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

Present : Mr. Rahul Vats, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filled the present appeal for challenging the judgment dated 31.3.2015 passed by learned Sub Divisional Judicial Magistrate, Hodal whereby complaint filed by him was dismissed and the respondents were acquitted of the charges under Sections 419, 420, 467, 468, 471 read with Section 120-B IPC.

According to the complainant, respondent No.1-Smt. Guddi entered into an agreement to sell her 4 kanals 13 marlas of agricultural land to him. As Shrichand, husband of Smt. Guddi did not execute the sale deed, the complainant filed civil suit for possession by way of specific performance. The suit was filed through Shri Madan Singh Dalal, Advocate. Despite the accused putting pressure upon him several times to compromise the matter, he had been asking Smt. Guddi to execute the sale deed. Smt. Guddi, in collusion with respondent No.2-Sunder Lal Tewatia, an advocate, and in the absence of the complainant and his advocate Shri Madan Singh Dalal, got recorded false statement of the complainant on 28.8.2006 with the Reader of

the Court to the effect that the dispute stood settled and, therefore, the complainant did not want to proceed further with the case. As he was withdrawing the case, the file be consigned to the record-room. Accused Sunder Lal Tewatia fabricated the signatures of the complainant on the above statement and at that time the complainant was purportedly identified by Shri Manoj Rawat, Advocate. In this way, in the presence of the complainant and his advocate and on the basis of false proceedings, the suit was dismissed on 28.8.2006 as having been withdrawn. The complainant had never withdrawn the case nor he appeared in the Court on 28.8.2006 nor he had signed the above statement nor also his advocate had the instructions to withdraw the case. When the complainant came to know about the dismissal of his suit, he enquired from Shri Manoj Rawat, Advocate, who told him that accused Sunder Lal Tewatia had signed in place of the complainant after getting him identified fraudulently.

Having heard learned counsel for the complainant and on going through the impugned judgment of acquittal, this Court finds that during his cross-examination the complainant stated that his signatures appeared on the affidavit dated 24.7.2006 (Ex.D1). In the said affidavit the complainant had deposed that as he had received the entire amount, he did not want to continue with the case. Further, Shri Manoj Rawat, Advocate, who appeared as DW2 before the trial Court testified that the complainant had appointed him as counsel. Before obtaining the signatures of the complainant on the vakalatnama, he had seen the identification of the complainant. He further stated that the complainant had come with him in the Court of Shri Pawan Kumar, Civil Judge where he got recorded his statement regarding withdrawal of the case, which he duly identified. Further, in his presence the

Presiding Officer had asked the complainant thrice as to whether any compromise had been effected and only after the complainant confirmed the said fact that his statement was recorded. It may not be out of place to mention here that the suit having been dismissed as withdrawn on 28.8.2006, the present complaint came to be filed almost two years, thereafter, i.e. on 14.6.2008. The long delay in coming up with the version that he had been duped by accused precluded the complainant from availing the remedy of criminal complaint against the accused.

In view of the above, no fault can be found with the impugned judgment of acquittal passed by the trial Court.

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

(T.P.S. MANN)
JUDGE

October 06, 2015
satish

(GURMIT RAM)
JUDGE