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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1905 of 2012

Date of decision: October 01, 2015

Partap Singh

.....Petitioner

Versus

Lekh Raj and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vikas Kumar, Advocate
for the petitioner.Mr. Johan Kumar, Advocate
for the respondents.SABINA, J

Petitioner has filed this petition challenging the order dated 16.09.2011.

Learned counsel for the petitioner has submitted that the Court of revision had erred in allowing the revision petition as the same was barred by limitation. Learned counsel has further submitted that the accused had forged the agreement to sell on blank papers. In support of his arguments, learned counsel has placed reliance on ***Ragho Singh versus Mohan Singh and others***, (2001) 9 SC 717, wherein, it was held as under:-

"We have heard learned counsel for the parties. Since it is not disputed that the appeal filed before the Additional Collector was beyond time by 10 days and an application under Section 5 of the Limitation Act was not filed for condonation of delay, there was no jurisdiction in the Additional Collector to allow that appeal. The appeal was liable to be dismissed on the ground of limitation. The Board of Revenue before which the question of limitation was agitated was of the view that though an application for condonation of

delay was not filed, the delay shall be deemed to have been condoned. This is patently erroneous. In this situation, the High Court was right in setting aside the judgment of the Additional Collector as also of the Board of Revenue. We find no infirmity in the impugned judgment. The appeal is dismissed. No costs."

Learned counsel for the respondents, on the other hand has submitted that vide order dated 16.05.2010, petitioners were relegated to their alternate remedy of revision under Section 397 of Code of Criminal Procedure, 1973. Due to this reason, the objection qua delay was not raised by the petitioner before the Court of revision. In the civil litigation, the agreement to sell in question was held to be a genuine document.

The case of the complainant, in brief, is that the accused had taken thumb impressions/signatures of the petitioner on blank plain/ stamp papers. Accused had forged the agreement to sell in question with regard to the land belonging to the petitioner. In support of his case, complainant led his preliminary evidence.

Trial Court ordered the summoning of the respondents vide order dated 02.06.2009. The said order was challenged by the respondents by way of revision and their revision petition was allowed by the Court of revision vide the impugned order dated 16.09.2011. It has been noticed by the Court of revision that there were cuttings on the agreement to sell and the said cuttings had been duly initialed by the petitioner. Therefore, it could not be said that the agreement to sell in question had been prepared on blank signed/thumb marked papers by the accused.

The learned Court of revision thus, rightly came to the conclusion that the complaint in question was liable to be dismissed.

Admittedly, civil litigation was pending between the parties and in the civil litigation, the agreement to sell in question was held to be a genuine document. Respondents had challenged the summoning order by approaching this Court by way of Crl. Misc. No.M-13212 of 2010. This Court while disposing of the revision petition, vide order dated 06.05.2010, relegated the respondents to their alternate remedy of revision.

Since the respondents were relegated to avail their alternate remedy of revision, the argument raised by learned counsel for the petitioner that the revision was time barred, is without any force. The judgment relied upon by the learned counsel for the petitioner thus, fails to advance the case of the petitioner.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

October 01, 2015
mahavir