

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

1. Crl. Revision No. 1230 of 2006 (O&M)
Date of Decision: 09.12.2015.

Khazan Singh and anotherPetitioners

Vs.

State of HaryanaRespondent

2. Crl. Revision No. 1960 of 2006 (O&M)

Ram LalPetitioner

Vs.

State of HaryanaRespondent

3. Crl. Revision No. 20 of 2006 (O&M)

Phool Devi (deceased) through LRPetitioner

Vs.

Maya Devi and othersRespondents

4. Crl. Revision No. 1603 of 2006 (O&M)

Phool Devi (deceased) through LRPetitioner

Vs.

Dharambir and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. A.P.S.Deol, Senior Advocate with
Mr. Himmat Deol, Advocate
for the petitioners.
(In Criminal Revision No. 1230 of 2006).

None for the petitioner.
(In Criminal Revision No. 1960 of 2006)

Mr. Bijender Dhankar, Advocate
for the petitioner(s).
(In Criminal Revision Nos. 20 and 1603 of 2006)

Ms. Dimple Jain, AAG, Haryana.

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SABINA, J.

Vide this order, above mentioned four petitions would be disposed of.

Prosecution story, in brief, is that Phool Devi (since deceased) and Chhoti Devi were co-owners of the land measuring 16 *kanals* and 16 *marlas* to the extent of 2/9th share along with their sisters and brother. On 11.10.2003, their brother Gianender sold their share by producing some other ladies on their behalf for a consideration of ₹ 55,000/- in favour of accused Raghbir, Dharambir, Satbir, Mahender Singh and Manohar Lal. Gianender had no right to alienate their share and had committed a fraud on the complainants.

After completion of investigation and necessary formalities, challan was presented against the accused.

Trial Court vide judgment dated 16.9.2005 ordered the acquittal of accused Maya Devi, Neelam and Rameshwari. So far as accused Khazan Singh, Inder Singh, Ram Lal, Raghbir, Dharambir, Satbir, Manohar Lal and Mahender Singh are concerned, they were held guilty of commission of offence punishable under Section 420, 467, 468, 471 of the Indian Penal Code, 1860 ('IPC' for short) and were convicted and sentenced thereunder vide order dated 16.9.2005/19.9.2005. The convicts

preferred appeals challenging their conviction and sentence. Appellate Court vide judgment dated 20.5.2006 ordered the acquittal of accused Manohar Lal, Dharambir, Satbir and Mahender Singh and upheld the conviction and sentence of accused Khazan Singh, Ram Lal, Inder Singh and Raghbir under Section 467, 468, 471 IPC.

Learned senior counsel for the accused (petitioners) has submitted that so far as the said petitioners are concerned, they had merely attested the sale deed. The ladies who had allegedly impersonated as the owners, had been acquitted by the Courts below. Therefore, petitioners were also liable to be acquitted of the charges framed against them.

Learned counsel for the complainant, on the other hand, has submitted that in fact, the accused who had impersonated as the complainants, were also liable to be convicted qua the charges framed against them and the conviction and sentence of the other accused as ordered by the Trial Court were liable to be upheld.

The Courts below while ordering the acquittal of accused Neelam, Rameshwari and Maya Devi have noticed that there was no evidence on record that the said accused had impersonated as Chhoti, Phool Devi (since deceased) and Indrawati.

The sale deed was allegedly thumb marked by complainants Chhoti, Phool Devi (since deceased) and their sister Indrawati. During investigation of the case, the investigating officer had moved the application for asking accused Maya Devi,

Neelam and Rameshwari to give their standard thumb impressions. However, the said accused declined to give their standard thumb impressions. No effort was made to get compared the thumb impressions on the sale deed Exhibit P-1, alleged to have been affixed by Chhoti, Phool Devi (since deceased) and Indrawati with their standard thumb impressions to establish that the sale deed did not bear the thumb impressions of the actual owners. Hence, the oral statements of the victims to the effect that they had not thumb marked the sale deed were rightly disbelieved by the Courts below. Further when accused Maya Devi, Neelam and Rameshwari were examined under Section 313 of the Code of Criminal Procedure, 1973, it was not put to them that they had refused to give their specimen thumb impressions during investigation. The Investigating Officer was not examined in this case to prove that he had moved the application dated 16.7.1994 for getting the standard thumb impressions of the accused. In these circumstances, the Appellate Court rightly held that no adverse inference can be drawn against accused Neelam, Rameshwari and Maya Devi qua the fact that they had refused to give their specimen thumb impressions as there was no other substantive evidence against the said accused to establish that they had impersonated as Chhoti, Phool Devi (since deceased) and Indrawati.

So far as the present petitioners Khazan Singh, Inder Singh and Ram Lal are concerned, they had merely attested the sale deed. Since the ladies who had impersonated as actual owners have been rightly ordered to be acquitted, petitioners

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Khazan Singh, Inder Singh and Ram Lal were also liable to be acquitted.

Accordingly, Criminal Revision Nos. 1230 of 2006 and 1960 of 2006 are allowed. Impugned judgments/order of conviction and sentence of petitioners Khazan Singh, Inder Singh and Ram Lal passed by the Courts below, are set aside. Consequently, petitioners Khazan Singh, Inder Singh and Ram Lal are ordered to be acquitted. Criminal Revision Nos. 20 of 2006 and 1603 of 2006, filed by petitioner Phool Devi (since deceased), are dismissed.

(SABINA)
JUDGE

December 09, 2015
Gurpreet