

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

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Crl. Revision No. 3434 of 2013 (O&M)
Date of decision: 13.02.2015

Dalel Singh

..... Petitioner

Versus

Kreshan and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. P S Sikand, Advocate
for the petitioner

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J. (Oral)

The present petition lays challenge to the judgment dated 20.07.2013 passed by the Additional Sessions Judge, Kaithal whereby the appeal preferred by the petitioner against the judgment dated 25.02.2011 passed by the Judicial Magistrate, Kaithal in favour of the respondents/accused has been dismissed and the findings recorded by the trial Court have been affirmed.

The allegations against the respondents are that Kartari Devi (since deceased) impersonated mother-in-law of the complainant to receive compensation given by the State Government in the year 1972 in lieu of land measuring 6 kanals and 16 marlas. The said offence was committed by Kartari Devi in furtherance of common intention with other accused, grand

children of said Kartari Devi. Accused No. 2 to 5 succeeded to procure false and fictitious civil Court decree dated 01.02.1991 passed in civil suit No. 1417 of 1990 titled *Balwant etc. v. Smt. Kartari Devi* wherein mother-in-law of the complainant never put in appearance and Kartari Devi accused No. 1 impersonated for Smt. Kartari Devi widow of Jai Ram.

Counsel for the petitioner contends that civil Court decree was challenged by way of civil suit titled *Smt. Teji alias Reshma v. Balwant Singh and others* and the suit for declaration was decided in favour of the plaintiff therein vide judgment dated 10.03.2003 passed by the Civil Judge (Senior Division) Kaithal. The appeal preferred against said judgment was dismissed by the Additional District Judge, Kaithal vide judgment dated 26.10.2004 and the judgment of the civil Court was affirmed upto the Hon'ble the Supreme Court of India. It is further submitted that in the civil litigation, a categorical finding was recorded by the Court that the judgment and decree dated 01.02.1991 passed in aforesaid civil suit is the result of impersonation as Smt. Kartari Devi, mother-in-law of the complainant never put in appearance in those proceedings. It is further submitted that keeping in view the findings of the civil Court, learned trial Court has committed gross error in holding in favour of the accused, therefore, the judgment passed by the Courts below are liable to be set aside and the respondents/accused are liable to be punished for the offence committed by them.

I have heard Counsel for the petitioner and perused the records.

Counsel for the petitioner has fairly conceded that no independent evidence was adduced in the criminal proceedings to prove the charge for committing offence of fraud and forgery by the accused and the

prosecution sought to place reliance only on the judgment passed by the civil Court. As per the settled position of law laid down by Hon'ble the Supreme Court of India in ***Kishan Singh (D) through L.Rs. v. Gurpal Singh and others, 2010(4) R.C.R. (Criminal) 74***, the judgment of the civil Court is not binding upon the criminal Court and vice versa. In absence of any other evidence adduced by the prosecution, I do not find any error much less illegality in the concurrent findings of fact recorded by the Courts below that the prosecution has failed to prove culpability of the accused beyond shadow of doubt.

In view of what has been discussed here-in-above, finding no merit, the petition is dismissed in limine.

(Rekha Mittal)
Judge

13.02.2015
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