

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.15872 of 2014
and
Criminal Revision No.1539 of 2014

.....

Date of decision:2.2.2015

Dharampal Kapoor

...Petitioner

v.

State of Punjab and others

Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vivek Salathia, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.15872 of 2014:

For the reasons mentioned in the criminal miscellaneous application, which is supported by an affidavit of the petitioner, the delay of 261 days in filing the revision petition is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Rev. No.1539 of 2014:

The petitioner has filed this criminal revision petition under Section 397/401 Cr.P.C. challenging the impugned judgment dated 28.5.2013 passed by learned Additional Sessions Judge, Amritsar, whereby the appeal filed under Section 378 Cr.P.C. against the impugned judgment dated 5.3.2012 passed by the learned Judicial Magistrate Ist

Class, Amritsar, vide which the accused have been acquitted, has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

The brief facts of the case are that Dharampal Kapoor moved an application to Inspector General of Police, Border Range, Amritsar, against Tilak Raj and others with the contents that he is absolute owner of property situated inside Lohgarh Gate, Amritsar. Probate, thereof, had already been granted in his favour. He used to reside at Amritsar and at Delhi. In his absence, his property had been forcibly annexed by encroachers, trespassers, as mentioned in the complaint. They had also made frivolous and forged sale deeds and sold his property to some one else without any right, title or interest. They were further threatening the complainant.

After investigation, the challan was presented against the accused-respondents. The trial Court finding prima facie case against the accused framed charges for the offences under Sections 448, 506 and 149 IPC, to which the accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined SI Gurdev Singh, Investigating Officer as PW-1, Dharampal Kapoor, complainant as PW-2, HC Raj Kumar as PW-3. Thereafter the evidence of the prosecution was closed by order.

It is in the judgment that the complainant-Dharampal Kapoor has deposed in the examination-in-chief but he has not been cross-

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examined as he never turned up for his cross-examination in this case. Since complainant Dharampal Kapoor was not cross-examined, his statement in examination-in-chief cannot be read in evidence.

The learned Judicial Magistrate Ist Class, Amritsar, has correctly acquitted the accused of the charges framed against them. The judgment passed by the learned Additional Sessions Judge, Amritsar, dismissing the appeal is also correct and as per law. During the course of arguments, learned counsel for the petitioner has not pointed out that any illegality has been committed by the Courts below, therefore, in no way, it can be held that the judgments passed by both the Courts below are illegal or perverse. There being no evidence of the complainant in the present case to prove the facts of the case, the accused have been rightly acquitted.

Therefore, finding no merit in the criminal revision petition, the same is dismissed.

February 2, 2015.

(Inderjit Singh)
Judge

hsp