

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

Date of decision:04.09.2015

Bakar Singh and others

.....Petitioners

v

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Ajay Kaushik,Advocate for the petitioners.
Mr.Mikhil Kad,AAG Punjab

Jaswant Singh,J.

Petitioners, convicted and sentenced by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib vide judgment and order dated 19.10.2012 in case FIR No.63 dated 30.4.2008 for the offences punishable under Sections 467,468,471 read with Section 120-B IPC, PS Sadar, Sri Muktsar Sahib and their appeal against said conviction and sentence having been dismissed by the learned Additional Sessions Judge, Sri Muktsar Sahib vide judgment dated 20.4.2015 have preferred the present revision petition.

In brief, petitioners in connivance with each other forged an agreement to sell dated 27.7.2007 in respect of land measuring 64 kanals belonging to complainant Ram Singh etc. While Resham Singh, petitioner no.2 was beneficiary of the said agreement, petitioner no.1 Bakar Singh, a Numberdar and petitioner Sucha Singh were alleged attesting witnesses to the said agreement. On the basis of said forged

and fabricated document, Resham Singh filed a suit for specific performance. On receipt of notice in the said suit complainant Ram Singh submitted an application dated 26.4.2008 before SSP Sri Muktsar Sahib that he alongwith his brothers namely Lachhman Singh, Didar Singh and Hardial Singh owned the land, subject matter of forged and fictitious agreement, and in order to grab the same accused Resham Singh, Sucha Singh and some unknown persons after hatching a conspiracy prepared said forged and fictitious agreement. It was further alleged that complainant party never entered into any alleged agreement to sell their land nor they received any consideration. On the said complaint an FIR was registered, investigations carried out and challan presented whereafter petitioners were charged for the offences under Sections 467, 468, 471 read with Section 120-B IPC to which they pleaded not guilty and claimed trial. The learned trial Court after hearing both sides and taking into consideration the material available on record convicted and sentenced the petitioners as noticed above which was upheld in appeal by the learned Additional Sessions Judge. Hence the present revision.

It is submitted by the learned counsel for the petitioners that the courts below failed to consider the fact that the FIR in this case was registered on the application moved by Ram Singh alongwith expert opinion, but no standard writing had been proved on record and thus conviction and sentence of the petitioners is totally wrong and illegal. It is further submitted that Handwriting and Finger Print Expert

gave two reports in the civil suit filed by Resham Singh, however the said reports did not form part of the criminal case. It is then submitted that the evidence of Handwriting and Finger Print Expert cannot be relied upon since he appeared at the instance of the complainant party. The conviction and sentence of the petitioners has also been assailed on the ground that the original agreement has not been made part of the criminal proceedings.

After hearing the learned counsel for the petitioners I find no merit in these submissions and the same are liable to be dismissed.

Learned Appellate Court in para 13 of its judgment has noticed that the “complainant has also seen original agreement to sell from the summoned file” and specifically deposed that it has been forged by the accused persons and he has proved the certified copy of the same as Ex.P1. He also denied signatures at point marked as A,B,C and D on said Ex.P1. Complainant was cross examined at length but in defence nothing favourable could be extracted. Thus, the complainant deposed directly to prove the factum of forgery at the instance of petitioners. To the same effect is the testimony of Didar Singh,PW2 who is none else than brother of complainant Ram Singh who denied his signatures on Ex.P1 at point marked as E,F,G and H. This witness was also cross examined at length but of no avail.

As regards the trustworthiness of evidence of Handwriting and Finger Print Expert, the appellate court has rightly noticed that when the complainant had examined the Expert and filed complaint on

the basis of the same then the accused were also having opportunity to rebut the same by way of examining any expert in their evidence but they failed to do so. Even in the civil suit filed by Resham Singh he chose not to examine any Handwriting and Finger Print Expert. Ultimately the said suit was also dismissed.

As regards comparison of disputed signatures with the standard specimen signatures, Anil Kumar Gupta, Handwriting and Finger Print Expert while appearing as PW4 proved the fact of comparing the same and submission of his detailed report as Ex.PW4/2. He also proved photocopy of agreement, questioned signatures and thumb impressions as well as standard/specimen signatures and thumb impressions, as detailed in his reports. This witness, too was cross examined but nothing could be extracted either to shatter his evidence or his reports to prove that he had given a wrong report causing prejudice to the rights of the petitioners.

As regards non-production of original agreement it is not disputed at the time of arguments that on the basis of said forged and fictitious agreement, Resham Singh had filed a suit for specific performance. The learned appellate Court in para 16 of its judgment has taken note of the fact that the record of civil suit was summoned through court officials in the criminal trial on various dates whenever it was required. Thus existence of forged and fictitious agreement, which is genesis of the criminal proceedings in the present case cannot be questioned.

No other point has been raised.

In view of the foregoing discussion this Court is of the opinion that the prosecution has been able to prove its case beyond any shadow of doubt and no case for interference in the present revision petition is made out.

Dismissed.

04.09.2015
joshi

(Jaswant Singh)
Judge