

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRA-D-729-DB-2015 (O&M)

Surjit Singh

..... Appellant

Versus

Gopal Singh, Nambardar and another

..... Respondents

2. CRA-S-3285-SB-2015

Surjit Singh

..... Appellant

Versus

Suba Singh and others

..... Respondents

Date of decision: 31.03.2016

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. M.K. Dogra, Advocate
for the appellant (in both cases).

RAMENDRA JAIN, J.

CRM-15502-2015 in CRA-D-729-DB-2015

Sufficient cause has been shown for condonation of delay in filing the appeal. The application is, therefore, accepted. The delay of 187 days in filing the appeal is condoned.

CRA-D-729-DB-2015

Two appeals i.e. CRA-D-729-DB-2015 and CRA-S-3285-SB-2015, filed by the appellant-complainant-Surjit Singh are being disposed of by this common judgment.

2. Briefly stated, respondent No. 1-Gopal Singh, Nambardar (in CRA-D-729-DB-2015) and respondents No. 1 and 2 namely, Suba Singh and Nazar Singh (in CRA-S-3285-SB-2015), were booked and tried for offences under Sections 420, 468 and 471 of the Indian Penal Code (IPC) on the allegations of appellant-Surjit Singh that they in connivance with each other and under the garb of a pronote of ₹ 20,000/- taken by respondent 2-Nazar Singh (in CRA-S-3285-SB-2015) from Sukhwinder Singh, brother-in-law of the appellant got executed a registered general attorney fraudulently by cheating him. Thereafter, respondent No. 1-Suba Singh (in CRA-S-3285-SB-2015) on the basis of said general attorney fraudulently sold the land of the appellant measuring 21 kanals 13 marlas, though he never executed any such registered general attorney to sell his land or ever knew aforesaid Suba Singh.

3. On perusal of evidence, the learned trial Court vide judgment and order of sentence dated 08.11.2011, convicted the respondents under Sections 420, 468 and 471 IPC and sentenced them as under:-

(1) Under Section 420 IPC

To undergo rigorous imprisonment of 3 years and to pay a fine of ₹ 500/- each and in default of payment of fine to further undergo rigorous imprisonment for 7

days.

(2) Under Section 468 IPC

To undergo rigorous imprisonment of 3 years and to pay a fine of ₹ 500/- each and in default of payment of fine to further undergo rigorous imprisonment for 7 days.

(3) Under Section 471 IPC

To undergo rigorous imprisonment of 2 years and to pay a fine of ₹ 500/- each and in default of payment of fine to further undergo rigorous imprisonment for 7 days.

All the substantive sentences were ordered to run concurrently.

4. Being aggrieved, respondent-Gopal Singh Nambardar preferred his separate appeal, whereas respondents Suba Singh and Nazar Singh filed their separate joint appeal. After hearing both the sides, the learned lower appellate Court acquitted all of them vide separate judgments dated 27.11.2013 (passed in appeal filed by Suba Singh and Nazar Singh) and 16.07.2014 (passed in appeal filed by Gopal Singh Nambardar).

5. Hence, the complainant has preferred the present appeals.

6. Learned counsel for the appellant contended that the impugned judgments of the learned lower appellate Court are based on surmises and conjectures. It has wrongly accepted the appeals filed by the respondents. The learned lower appellate Court has wrongly and

illegally arrived at the conclusion that appellant-Surjit Singh had executed the registered general attorney in favour of Suba Singh-respondent No. 1 (in CRA-S-3285-SB-2015) by ignoring the foolproof prosecution evidence. The learned lower appellate Court failed to appreciate that respondents had got executed general attorney from the appellant under the garb of some bond against borrowing of an amount of ₹ 20,000/- by his brother-in-law. It was well proved that respondents in connivance with each other had obtained signatures of appellant on some blank papers and then forged the general attorney in question and got registered the same illegally by taking advantage of his illiteracy as well of his brother-in-law-Sukhwinder Singh.

7. After giving our thoughtful consideration to the submissions made by learned counsel for the appellant, we find no merit in both the appeals for the reasons to follow.

(i) Admittedly, the general attorney in question is a registered document. There is always an endorsement of the Sub Registrar on every registered document that the document was being registered after reading over its contents to the executant. Hence, the presumption of truth is attached to the general attorney in question that it was read over to the appellant before registering it.

(ii) The registered general attorney in question was witnessed by PW-6 Sukhwinder Singh-brother-in-law

- of the appellant. It is pertinent to mention here that Sub Registrar has taken the photographs of the appellant as well as his brother-in-law. PW-2 Pal Singh Sandhu, Naib Tehsildar, has categorically deposed that before registering the general attorney, he had explained its contents to Surjit singh as well as his witnesses and they after admitting the same as correct, had appended their signatures on the same. From his deposition, it is evident that no alleged fraud could have ever been committed by the private respondents.
- (iii) For execution of general attorney, the stamp papers were purchased from DW-2 Vipin Kumar, who testified that at the time of purchase of stamp papers, the appellant was not under the influence of any intoxicant.
- (iv) More so, the alleged general attorney has not been challenged by the appellant on civil side and, thus, the same would remain in existence unless and until it is set aside by any Civil Court of competent jurisdiction. Resultantly, the conviction of any of the private respondent would be meaningless.
- (v) In criminal law the allegation of fraud, misrepresentation and cheating are to be proved beyond any reasonable doubt. In the instant case, the

prosecution has miserably failed to do so.

8. We have gone through the impugned judgments and found no illegality or perversity in the same.

9. Both the appeals being completely devoid of any merit are dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 31, 2016

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