

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-300 -MA-2013 (O&M)
Date of decision: 01.03.2016

Vidya Devi

.....Applicant

versus

State of Punjab and others

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.K.C.Singla, Advocate for
Mr.Baljit Puri, Advocate for the applicant
Mr.Ashish Sanghi, DAG Punjab
Mr.K.S.Chahal, Advocate for the respondent Nos.2 and 3

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This order will dispose of an application filed by the applicant under Section 378(4) Cr.P.C. for grant of leave to file appeal against the judgment dated 6.3.2012, passed by the learned Sub Divisional Judicial Magistrate, Sunam, vide which the complaint filed by the complainant/ applicant was dismissed.

Briefly stated, the claimant claims that she is Mohtmim of 'Dera Samadh Baba Budh Dass' which owns certain land. The accused Nos.1 and 2 filed a civil suit, challenging the judgment passed in favour of the complainant, vide which, it was declared that Dera is in possession of the said land through the complainant as Mohtmim. It is stated that the suit of the accused Nos.1 and 2 was dismissed on 4.3.1994 and appeal filed by them against the said

judgment and decree was also dismissed on 13.11.1999. Accused also tried to get the entry of girdawari corrected through revenue Court. But the same also failed. The allegations are that accused Nos.1 and 2 in connivance with accused No.3 Darshan Singh, Halqa Patwari (since deceased), got the report No.549 dated 12.7.2002 made in the Roznamcha, whereby wrong entry was made in the Jamabandi to the effect that vide para No.9 of the judgment dated 13.11.1999, the decrees dated 10.9.1992 and 16.4.1993 have been set aside.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that Patwari is already dead. The allegations against accused Nos.1 and 2. are that they have connived with Patwari. Except the statement of the complainant, there is no evidence that accused Nos.1 and 2 had connived with the Patwari. Therefore, the accused cannot be convicted merely on the basis of the presumptions or suppositions of the fact that accused No.1 and 2 will be the beneficiaries.

It being so, the guilt of the accused Nos.1 and 2 had to be proved beyond all reasonable doubts. Since the said parameters are not met, therefore, the learned Sub Divisional Judicial Magistrate, Sunam, was justified in dismissing the complaint of the complainant and acquitting the accused. No ground to grant leave to appeal.

The same is accordingly dismissed.

01.03.2016

gk

GOPAL KRISHAN
2016.03.14 10:27
I attest to the accuracy and
authenticity of this document
High Court Chandigarh

**(Kuldip Singh)
Judge**