

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA No. AS-10 of 2016 (O/M)

Date of decision : 19.1.2016

Harjit Singh

..... Applicant

Versus

Nirmal Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Thind, Advocate, for the applicant.

1. Whether the Reporters of local newspaper 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 ?

-. -

-. -

KULDIP SINGH J. (ORAL)

CRM No. A-459-MA of 2013

This is an application under Section 378 (4) Cr.P.C. for grant of leave to appeal against the order of acquittal dated 22.4.2013, passed by the learned Sub Divisional Judicial Magistrate, Baba Bakala, District Amritsar.

For the reasons mentioned in the grounds of appeal, the leave to appeal against the order of acquittal dated 22.4.2013, passed by the learned Sub Divisional Judicial Magistrate, Baba Bakala, District Amritsar, is granted. The Registry is directed to assign the number to the main appeal.

Application is disposed of.

Main case

Impugned in the present appeal is the order dated

CRA No. AS-10 of 2016 (O/M)

22.4.2013, passed by the learned Sub Divisional Judicial Magistrate, Baba Bakala, District Amritsar, vide which in the criminal case filed by the present appellant, the accused were acquitted.

Briefly stated, the allegations against the accused are that they have cut and stolen 30 Eucalyptus trees from khasra No. 28/7 on 17.7.2007.

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

Before the lower Court, the appellant/complainant had produced the certified copy of sale deed dated 1.8.2005 (Ex.C1), which shows that the complainant party had purchased only share in some khasra numbers including said khasra No. 28/7. Accused Nirmal Singh is recorded to be a co-sharer in the entire khata. In the copy of jamabandi (Ex.C2) also, the present appellant or his son are not recorded to be in exclusive possession over the khasra numbers in question. Therefore, it cannot be said that the complainant was in possession of the said Eucalyptus trees. The removal of the same by the accused does not make out any offence of theft or trespass. Therefore, there is no perversity or infirmity in the impugned judgment. Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

19.1.2016
sjks