

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-151 -MA-2016 (O&M)

Date of decision: 23.02.2016

Union Territory of Chandigarh

.....Applicant

versus

Savinder Jeet Kaur

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Amarjit Singh Virk, Advocate for the applicant
Mr.A.D.S.Sukhija, Advocate for the respondent

- 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)

CRM No.2830 of 2016

For the reasons mentioned in the application, it is allowed and 7 days delay in filing the application for grant of leave to appeal stands condoned.

CRM-A-151 -MA-2016

Impugned in the present application for grant of leave to appeal is the judgment dated 18.8.2015, passed by the learned Sessions Judge, Chandigarh, vide which the judgment of conviction and order of sentence dated 5.8.2014, passed by the learned Judicial Magistrate 1st Class, Chandigarh were reversed and respondent was acquitted of the charges framed against her under Section 420 IPC.

The respondent was sought to be prosecuted on the

ground that her husband owned house No.2064, Sector 45-C, Chandigarh and that by concealing the said fact, she got allotted another flat No.1329, Sector 44B, Chandigarh.

The first appellate Court, while hearing the appeal of the respondent-accused and the statement made by Swarn Kaur DW3 that her husband had purchased House No.2064, Sector 45-C, Chandigarh on 18.11.1984 from Charanjeet Singh husband of the present respondent, observed as under:-

“Thus, the entire facts and circumstances of the case show that Charanjit Singh husband of the appellant disposed of the flat due to un-avoidable circumstances mentioned above, whereas the flat No.1329, Sector 44-B, Chandigarh was allotted to the appellant in the year 1985.”

On the other hand, it has been argued on behalf of the respondent that flat allotted in Sector 44B, Chandigarh was applied in the year 1983, which is before the acquisition of house in Sector 45C, Chandigarh in May 1984.

The learned Sessions Judge held that if there are two versions, one proved by the prosecution and other proved by the defence, then if the version proved by the accused appears to be more probable than the version put forward by the prosecution, the Court will choose to believe and adopt the defence version.

In this case, the allegations are that while seeking allotment of the second flat, a mis-representation was made. I am of the view that a mis-representation, which can be verified and

detected, will not amount to cheating. Even if it is assumed that the prosecution story is correct and a wrong representation was made, then the Housing Board had the means to verify whether any property stands in the name of the accused or her husband or any other family member.

It being so, even the ingredients of cheating as defined in Section 420 IPC are not made out. Thus, I am of the view that the first appellate Court had taken one of the two possible views. There is no illegality or perversity in the same.

Consequently, the present application for grant of leave to appeal stands dismissed.

23.02.2016
gk

(Kuldip Singh)
Judge