

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1334-MA-2015 (O&M)

Date of decision: 28.04.2016

Jatinder Kumar

..... Applicant

Versus

Sunita Rani and others

..... Respondents

**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 or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. R.S. Rangpuri, Advocate
for the applicant.

RAMENDRA JAIN, J.

CRM-24376-2015

Heard.

Sufficient cause has been shown for condonation of delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 30 days in applying for leave to appeal is condoned.

CRM-A-1334-MA-2015

The applicant filed a private complaint against the respondents and one Babu Singh, Halqa Patwari of village Rukhala,

Tehsil Gidderbaha, District Sri Muktsar Sahib, on the allegations that he as a partner of M/s Arora Gram Samiti, Rukhala (a registered firm) by taking the land measuring 28 kanals on lease from one Nachhattar Singh and respondent No. 3-Karamjeet Kaur, had installed a brick kiln at village Rukhala. Initially, the lease was for five years up to 15.11.1997, which was to be further extended. Respondent No. 1-Sunita Rani became partner of the aforesaid firm vide partnership deed dated 01.04.1999. Their partnership has not dissolved yet. Consequently all the assets of the partnership firm i.e. cemented chimney constructed in the year 1995, servant quarters, *bhanda* and other tools were still joint between the applicant, respondent No. 1 and other partners. Even no settlement of account had ever taken amongst the partners. However, around five years back in the months of January/February, 2006, respondent No. 1 in connivance with her husband-Satish Kumar (respondent No. 2), Karamjeet Kaur-respondent No. 3 and her husband respondent No. 4-Gurjant Singh without getting the partnership firm dissolved and in the absence of applicant started manufacturing and selling bricks on the lease-hold land by using the assets of the firm and appropriated income towards their personal assets. Request of the applicant to not to use the joint assets of the partnership firm without dissolving the same was not acceded to. Finding no other option, the applicant filed a civil suit for declaration and permanent injunction against the respondents and obtained a status quo order. The arbitration application filed by him was still pending, but despite that the respondents in connivance with each other and with the help of aforesaid Babu Singh, Halqa Patwari got

entered rapat No. 13 dated 08.10.2003 regarding cancellation of lease of the land in favour of the partnership firm, at the back and without the knowledge of the applicant. Thereafter, respondent No. 3-Karamjeet Kaur executed another lease agreement/deed in favour of respondent No. 1-Sunita Rani, in her personal capacity by ignoring the earlier lease deed in favour of the partnership firm. The offer of respondent No. 2-Satish Kumar to pay ₹ 1 lac was declined by him being unjustified. Respondent No. 2 threatened the applicant that they had already misappropriated the property of the firm around 5-6 years back and thus, would not pay even a single penny to him. Respondent No. 2 also threatened to cause physical loss to the applicant in case, he would not withdraw his civil suit. The police did not take any action upon his complaint. Hence, the private complaint.

2. On appraisal of evidence led by the applicant and after hearing learned counsel for both the sides, the learned Judicial Magistrate Ist Class, Gidderbaha did not find himself convinced with the allegations levelled by the applicant against the respondents and resultantly, dismissed his complaint vide impugned judgment dated 07.04.2015.

3. Being aggrieved, the applicant has preferred the instant application under Section 378 (4) Cr.P.C., seeking leave to file the accompanying appeal.

4. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. There was foolproof evidence on record that respondents had cheated the applicant by executing subsequent lease deed and misappropriating the joint assets

of the partnership firm.

5. After giving our thoughtful consideration to the submissions made by learned counsel for the applicant, we find no merit in the instant application for the reasons to follow.

- (i) No alleged partnership deed was ever produced by the applicant on the record.
- (ii) As per own allegations of the applicant, the initial lease deed was for five years up to 15.11.1997. Though it was alleged by the applicant that the said lease was to be further extended, but he has miserably failed to adduce any evidence in this regard. Rather, the applicant feigned his ignorance about the extension of lease deed. Hence, it has rightly been observed by the Court below that after the expiry of alleged lease deed, the brick kiln belonged to the owners of the land.
- (iii) Admittedly, the civil suit filed by the applicant was dismissed in default which was never got restored nor any appeal was filed. This fact also shows that the applicant was fighting his legal battle with the respondents halfheartedly. He also could not prove that any cheating was ever committed with him by forging any document by the respondents.

6. Learned counsel for the applicant has failed to put any dent in any of the findings of the learned trial Court. We have also gone through the impugned judgment and found no illegality or perversity in

the same.

7. The instant application, being completely devoid of any merit is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

April 28, 2016

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