

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-A-464-MA-2016 (O&M)

Date of decision : 06.12.2016

Charan Dass Sharma

...Applicant-Appellant

Versus

Balwant Singh @ Bachitar Singh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None for the applicant-appellant.

JITENDRA CHAUHAN, J. (Oral)

CRM No.7808-2016

Perused.

There is inordinate delay of 414 days in filing the application for special leave to appeal.

No satisfactory explanation is forthcoming to condone the delay as such, no case for condonation of delay is made out.

Dismissed.

Main Case

This special leave to appeal is directed against the impugned judgment dated 07.10.2014, passed by learned Judicial Magistrate First Class, Amritsar, whereby accused-respondent No.1 was acquitted of the charges framed against him vide FIR No.11 dated 10.02.2011 registered

under Section 420 of the Indian Penal Code (for short 'the IPC') at Police Station Maqboolpura, Amritsar.

It is averred in the petition that respondent No.1 had cheated the Election Commission by preparing two voter cards with different names i.e. Balwant Singh and Bachitar Singh. Respondent No.1 is listed as a voter in the voter list of the year 2003 with the name of Balwant Singh. On the complaint dated 20.01.2010 filed by the applicant-appellant, inquiry was conducted and it was found that respondent No.1 had got prepared his voter card in the name of Bachitar Singh in the Vidhan Sabha Election for the year 2009. Electricity bill and ration card of respondent No.1 also bear the name of Balwant Singh.

Perused.

It is a settled law as has been held in ***C. Antony Vs. K.G. Raghavan Nair***, 2002(4) RCR (Criminal) 750 that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

In the instant case, during cross-examination, the applicant-appellant has admitted that some litigations with respondent No.1 are pending. It is also admitted that in the civil suit filed by the applicant-appellant he has mentioned the name of respondent No.1 as Balwant Singh

@ Bachitar Singh. Saurabh Kholsa, Clerk of the District Election Office has no where deposed that respondent No.1 had procured the said vote by cheating the department. ASI-Narinderjit Singh has stated that during the investigation it has not come on record that respondent No.1 had casted his vote on two names at two places. Moreover, DW1-Lajwinder Singh, Chief Editor of newspaper 'Sikh Sansar' proved the 'jarori suchna' published in the newspaper, whereby respondent No.1 had declared that he has two names i.e. Balwant Singh and Bachitar Singh. In such circumstances, the finding of acquittal recorded by the trial court cannot be said to be perverse or contrary to the material on record. In fact, there is no infirmity or illegality in the reasoning recorded by the trial Court for acquitting respondent No.1. This Court feels that learned Judicial Magistrate 1st Class, Amritsar has passed the impugned judgment dated 07.10.2014, after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the special leave to appeal is declined on merits as well as being time barred.

Dismissed.

06.12.2016

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No