

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.25186 of 2015 and
CRM-A-1375-MA-2015
DATE OF DECISION: March 15, 2016

Narinder Singh

...Applicant

Versus

Lakhvir Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.P.S.Salar, Advocate for the applicant.
Mr.Harish Davedi, Advocate for respondent
Nos.1,3 and 4.
Mr.H.P.S.Ghuman, Advocate for respondent
Nos.2 and 5.

RAMENDRA JAIN, J.

CRM No.25186 of 2015

Sufficient cause has been shown to condone the
delay in filing the accompanying application.

The application is, therefore, accepted. The delay
of 100 days in filing the accompanying application under
Section 378 Cr.P.C. is condoned.

CRM-A-1375-MA-2015

The instant application has been filed by the
applicant, seeking leave to file the accompanying appeal
against acquittal of respondents No. 1 and 5, vide impugned
judgment dated 21.2.2015 passed by the learned Judicial

Magistrate Ist Class, Nabha.

Briefly stated, in the month of October 2007, accused Nachhattar Kaur, presently residing in Malaysia had come to her home in village Kartarpur. She entered into an agreement to sell of land measuring 6 bighas and 6 biswas situated at village Sajuma, District Sangrur on 23.10.2007 with the present applicant for consideration @ ₹6 lacs per acre. Earnest money of ₹50,000/- was paid to her and the possession of the land was delivered to the applicant. The aforesaid agreement was witnessed by Babu Singh and Mohidner Singh. Since the mutation of the land was to be sanctioned in her favour after the death of her husband, she promised to execute the sale deed within one month of sanctioning of the same. As and when the applicant requested her for execution of the sale deed, she started delaying the execution of the same on one pretext or the other. Thereafter, Nachhattar Kaur in connivance with her husband Netar Singh (respondent No.4) prepared a forged agreement dated 20.10.2007 in favour of respondent No.3 Kulwinder Kaur duly witnessed by respondent Nos.2 and 1 and executed the sale deed in favour of respondent No.3 Kulwinder Kaur. As per report of the Handwriting and Finger Print Expert, the agreement to sell dated 20.10.2007 was forged. On coming to know of the above fact, when the

applicant tried to contact vendor Nachhattar Kaur, it was found that she had left for Malaysia. Thus, the respondents had cheated him in the above manner. The applicant had also filed a suit for specific performance for the execution of sale deed. With these broad allegations, the applicant filed a complaint under Sections 420,465,467,468 and 471 IPC against the respondents and aforesaid Nachhattar Kaur. However, during the pendency of proceedings before the trial Court, Nachhattar Kaur was declared proclaimed offender vide order dated 19.1.2015.

In preliminary evidence, the applicant examined three witnesses. Thereafter, the complaint was dismissed vide order dated 18.5.2010. In revision, the Appellate Court set aside the order dated 18.5.2010 passed by the trial Court and the respondents were ordered to be summoned to face trial.

After recording pre-charge evidence, the respondents were charge sheeted under Sections 420,465,467,468 and 471 read with Section 120-B IPC to which they pleaded not guilty and claimed trial.

On appraisal of evidence, the trial Court acquitted the respondents of the charges framed against them.

Learned counsel for the applicant argued that the impugned judgment of the trial Court is based on surmises and conjectures. The trial Court has wrongly acquitted the

respondents without appreciating the fully corroborated evidence adduced by the complainant and other witnesses.

After giving our thoughtful consideration to the aforesaid submissions, we find the present application meritless for the reasons to follow.

So far as the allegation of preparing the forged agreement dated 20.10.2007 is concerned, the complainant examined Inderjit Singh, Handwriting and Finger prints Expert as CW1, who vide his report dated 11.10.2011 opined that the agreement dated 20.10.2007 was typed on blank papers. However, this witness failed to opine that at what point of time, the matter was typed and blank stamp papers thumb marked which was necessarily required to resolve the real controversy in dispute. Thus, the allegation levelled that the aforesaid agreement dated 20.10.2007 was scribed after the execution of agreement dated 23.10.2007 in favour of the applicant does not have any substance. Further more, the beneficiary of the agreement dated 20.10.2007 was respondent No.4 Kulwinder Kaur. However, there is no evidence on record to show that she ever had any knowledge of the alleged agreement dated 23.10.2007. Even the Civil Court vide judgment dated 8.7.2014, Ex.DX came to the conclusion that the applicant had failed to prove that respondent No.3 Kulwinder Kaur was ever in the knowledge of the alleged agreement to sell dated

23.10.2007. The Civil Court has further observed that respondent No.3 Kulwinder Kaur was a bonafide purchaser. Anyhow, in case, the applicant wanted to prove that the agreement to sell dated 20.10.2007 was executed after the execution of agreement dated 23.10.2007 in his favour, he should have examined the stamp vendor, but that is lacking. The appreciation of evidence by the trial Court in reaching to the conclusion that the applicant failed to prove that the agreement to sell dated 20.10.2007 was forged one and prepared ante-dated, does not require any interference.

In view of the aforesaid discussion, we find no merit in the prayer made in the application 378 CrPC for grant of leave to appeal against the judgment of acquittal dated 21.2.2015 passed by the learned Judicial Magistrate Ist Class, Nabha and accordingly, it is rejected. Leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 15,2016
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