

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1387-MA-2015 (O&M)

Date of decision: 06.04.2016

Manreet Kaur (minor)

..... Applicant

Versus

Manjit Kaur 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. Chauhan, Advocate
for the applicant.

RAMENDRA JAIN, J.

CRM-25731-2015

Heard.

Sufficient cause has been shown for condonation of delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 131 days in applying for leave to appeal is condoned.

CRM-25732-2015

Allowed as prayed for.

CRM-A-1387-MA-2015

The present application under Section 378(4) Cr.P.C. seeking leave to appeal has been filed by applicant-Manreet Kaur (minor)

through her maternal uncle Mandeep Singh against the acquittal of respondents, vide judgment dated 19.01.2015 passed by the learned Judicial Magistrate Ist Class, Rajpura.

2. Put pithily, Harvir Singh S/o Santokh Singh resident of village Kheri Gurna, Tehsil Rajpura, had huge landed properties in villages Kheri Gurna, Gharama Khurd and Bhabat as detailed in para No. 2 of the impugned judgment. He died on 02.07.2004 at Kharar leaving behind his mother Manjit Kaur-respondent No. 1 and Navdeep Kaur his wife. The applicant at that time was in the womb of her mother-Navdeep Kaur and took birth after the death of her father. After the death of Harvir Singh, respondent No. 1 in connivance with respondents No. 2 and 3 namely, Surinder Singh and Bant Ram, as attesting witnesses forged and fabricated a Will dated 14.02.2004 in favour of respondent No. 1 purported to be of Harvir Singh with sole motive to deprive the applicant and her mother from the properties left by Harvir Singh. Respondent No. 1 also got sanctioned mutations No. 1080 and 1538 on the basis of aforesaid Will.

3. With these broad allegations, the applicant filed a complaint in the Court of learned Judicial Magistrate Ist Class, Rajpura.

4. After recording preliminary evidence, respondents were summoned to face trial under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code (IPC).

5. After perusing the evidence and hearing learned counsel for both the sides, learned trial Court vide impugned judgment dated 19.01.2015 acquitted the respondents of the above charges.

6. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. Learned trial Court has erred in ignoring that the Collector as well as the Commissioner had found the Will in question in favour of respondent No. 1 to be surrounded with suspicious circumstances and by ignoring the same, they ordered for sanctioning of mutation of the properties of Harvir Singh on the basis of natural succession. The above factum had clearly proved the committing of fraud and cheating by the respondents and thus, they should have been convicted by the learned trial Court.

7. 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) The matter existed between the parties is of civil nature. The original of alleged forged Will dated 14.02.2004 did not see the light of the day. The comparison of disputed signatures of Harvir Singh from the photocopy of Will is not legal. Hence, the applicant had failed to prove beyond any shadow of doubt that respondents had committed any forgery in preparing the alleged Will dated 14.02.2004 of deceased-Harvir Singh.

(ii) The applicant along with her mother had filed a civil suit challenging the Will in dispute, which was decreed vide judgment dated 19.01.2015. No contrary evidence has been brought on record. Thus, it is

evident that the applicant has won her legal battle on civil side against the respondents, therefore, any penal action against them is barred under the doctrine of double jeopardy.

- (iii) Mutation of the landed property of deceased-Harvir Singh has already been sanctioned on the basis of natural succession by ignoring the disputed Will and, thus, the rights of the applicant are not being prejudiced in any manner.

8. We have gone through the impugned judgment and found no illegality or perversity in the same.

9. 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 06, 2016
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