

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

**CRM No. 25752 of 2015 in/and
CRM-A-1392-MA of 2015
Date of decision : 30.3.2016**

Kuldeep Singh

...Applicant

v.

Gulzar Singh and others

.....Respondents

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

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Saurabh Arora, Advocate
for the applicant

RAMENDRA JAIN, J.

CRM No. 25752 of 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 116 days in applying for leave to appeal is condoned.

CRM-A-1392-MA of 2015 :

The instant application under Section 378(4) Cr.P.C. has been filed by the complainant against acquittal of respondents No.1 to 5 by the learned Judicial Magistrate Ist Class, Dera Bassi vide impugned judgment dated

5.2.2015.

In nutshell, on a private complaint, the respondents were put to trial under Sections 420, 467, 468, 471 and 120B IPC on the allegations that respondents No.1 to 3 in connivance with each other had forged and fabricated a Will dated 29.11.2003 of Jagir Singh-grand father of the applicant by fictitiously showing respondents No.4 and 5 to be its witnesses with an intention to cause loss to them.

The applicant-complainant in support of his case examined his father Dhian Singh as CW1 followed by himself as CW2, CW3 Gurmeet Kaur, Registration Clerk, CW4 Swaran Singh, Deed Writer and CW5 R.V. Vashist, Handwriting and Fingerprints Expert. Statements of the respondents/accused under Section 313 Cr.P.C. were recorded putting entire incriminating evidence brought on record by the applicant against them, which they denied and pleaded their false implication. In defence, they examined DW1 Dr. Jassi Anand, Handwriting and Fingerprints Expert.

After hearing learned counsel for both the sides and perusing the evidence on record, the learned Magistrate did not find himself convinced with the grouse of the applicant and thus, dismissed the complaint vide impugned judgment.

Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The learned trial Court has failed to appreciate that there was fool-proof evidence on record that respondents No.1 to 3 in connivance with each other and with the help of respondents No.4 and 5 by showing them witnesses, forged and fabricated an unregistered Will dated 29.11.2003 of his grand father Jagir Singh to cause loss

to them. Learned trial Court has erred in not appreciating that mutation was sanctioned on the basis of registered Will of Jagir Singh by the revenue authorities by ignoring un-registered forged and fictitious Will dated 29.11.2003 prepared by the respondents.

After giving our thoughtful consideration to the above submissions, we find no merit in the present application for the reasons to follow.

(i) To prove that un-registered Will dated 29.11.2003 was forged and fabricated by respondents, the applicant examined Mr. R.V. Vashist, Handwriting and Fingerprints Expert, who tried to prove that the thumb impression on the alleged forged Will were not of executant Jagir Singh, but were of someone else. In contradiction to the said report, respondents examined DW1 Dr. Jassi Anand, Handwriting and Fingerprints Expert.

(ii) Cross examination of CW5 R.V. Vashist made his report completely irrelevant, as he admitted that he had not examined the standard thumb impression of Jagir Singh on the original Will. The photographs of the disputed thumb impression were not taken by him in the presence of the opposite counsel. This witness was duty bound to compare the disputed thumb impressions of Jagir Singh with his standard thumb impressions on the original registered Will.

(iii) CW5 Mr. R.V. Vashist further admitted that if two thumb impressions tally in their 6 to 8 cogent points of similarities, then the same can be said to be identical by one and the same person. His above clarification has supported the case of the respondents, because DW1 Dr. Jassi Anand, Handwriting and Fingerprints

Expert opined that 8-9 characters of the disputed and standard thumb impressions were matching with each other. Hence, the above admission of CW5 Mr. R.V. Vashist had smashed the entire case of the appellant.

Since the case of the applicant is not proved against the respondents from above angle, therefore, there is no need to look into other aspects of the case already dealt with by the learned Magistrate.

In view of the above discussion, the instant application being completely devoid of any merit is dismissed. Leave to appeal is declined.

(RAMENDRA JAIN)
JUDGE

(T.P.S. MANN)
JUDGE

30.3.2016
Ashwani