

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

**CRM-A-1493-MA of 2015 (O & M)
Date of decision : 5.4.2016**

Mithu Singh

.....Applicant

v.

Jagdish Kumar and others

.....Respondents

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

Present : Mr. Kamal Narula, Advocate
for the applicant

RAMENDRA JAIN, J.

CRM No. 28749 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 622 days in applying for leave to appeal is condoned.

CRM-A-1493-MA of 2015 :

The complainant has preferred the present application under Section 378(4) Cr.P.C. against acquittal of respondents No. 1 to 4 (private respondents) vide judgment dated 4.10.2013 passed by the learned Chief Judicial Magistrate, Fazilka.

In nutshell, applicant Mithu Singh filed a private complaint that he used to sell his agricultural produce at the shop of Commission Agent of the private respondents and they cheated and committed fraud with him by obtaining his signatures on some blank stamp papers and pro-notes, besides in

the register of Deed Writer and thereafter, fabricated the same into some agreements to sell showing sale of land by him to them against receipt of some earnest money. Since the aforesaid agreements allegedly executed by him were forged and fictitious, so he challenged the same also by way of civil suit. It is also mentioned that he (applicant) was also caught and robbed of ₹ 2600/- by the private respondents on 14.3.2005. The matter was reported to the police, but it did not take any action.

The applicant himself stepped in the witness box as CW2, followed by V.B. Bhatnagar, Handwriting and Fingerprints Expert as CW3. When he failed to conclude his after-charge evidence despite availing sufficient opportunities, finding no option, the same was closed by Court order.

Statements of the accused-respondents under Section 313 Cr.P.C. were recorded putting entire incriminating evidence on record against them, which they denied and pleaded their false implication.

After hearing learned counsel for the parties and perusing the evidence brought on record by both the sides, the trial Court did not find itself convinced with the allegations of the applicant and thus, dismissed his complaint vide impugned judgment dated 4.10.2013 acquitting the private respondents.

Learned counsel for the applicant contended that the impugned judgment of the learned trial Court is based on surmises and conjectures. From the trust worthy testimony of the applicant, it was well proved on the record that the private respondents had obtained his signature on some blank stamp papers and pro-notes in the year 1999 and again in 2001 and then converted the same into forged and fictitious agreements to sell allegedly executed by him. The

learned trial Court has failed to appreciate that why a person would sell his land and execute any agreement to sell in less price than prevailing in the market. The alleged agreement to sell executed in 2001 finds mention less price than shown in the agreement to sell allegedly entered into by the applicant in the year 1999. This fact alone was sufficient for conviction of the private respondents.

We have given our thoughtful consideration to the above submissions and find no merit in the instant application for the reasons to follow.

(i) CW1 Arjan Dev Luna, Advocate examined by the applicant in pre charge evidence testified that the applicant Mithu Singh had signed the agreement to sell Ex.C1 after admitting its contents as correct with conscious mind. The applicant himself had brought respondents No.1 and 3 to witness the same. Since Arjan Dev Luna, Advocate did not favour the applicant in pre-charge evidence, therefore, the applicant did not examine him in after-charge evidence.

(ii) The applicant as CW 2 has admitted that he was dealing with the private respondents since the year 1991. The disputed agreements to sell are of the years 1999 and 2001. No single instance of cheating and fraud by the private respondents has been brought on record by the applicant in such a long span of nine years i.e. in between 1991 and 1999. Hence, it does not appeal to reason that the private respondents after nine years had become dishonest and committed the alleged cheating and fraud with the applicant.

(iii) Agreement to sell Ex.C1 was found entered in the register of

Deed Writer with the signature of the applicant. The Deed Writer as discussed above did not support the applicant. The applicant did not examine any other evidence to corroborate his testimony. By this time, it is well settled law that when a person admits his signature on a particular document, in that eventuality, a presumption is attached that the signatory had signed the same after admitting its contents as correct, unless proved otherwise. Since, in the instant case, the applicant has admitted his signature on agreement to sell Ex. C1, therefore, inference is liable to be drawn against him that he had signed the same after admitting its contents as correct, because he has not lead any contrary evidence.

(iv) Admittedly, on civil side challenging the agreements in dispute, which are subject matter of the instant litigation, the applicant has lost his battle upto this Court in Regular Second Appeal, which fact also goes against him.

Learned counsel for the applicant has miserably failed to put any dent in any of the findings of the learned trial Court.

We have also gone through the impugned judgment and find no illegality or perversity in the same.

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

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

5.4.2016
Ashwani