

CRM-A-1510-MA-2015 (O&M)

211

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

CRM-A-1510-MA-2015 (O&M)

Date of Decision: 25.04.2016

DAYA KISHAN

... Appellant

VS.

LEELU RAM AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Swarn Tiwana, Advocate,
for the applicant.

1. *Whether Reporters of Local Newspapers 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?*

KULDIP SINGH, J (ORAL)

CRM-29328-2015

The present application filed under Section 5 of Limitation Act has been filed for condonation of delay of 170 days in filing the leave to appeal.

For the reasons enumerated in the application, the same is allowed. Delay of 170 days in filing the leave to appeal is hereby condoned subject to all just exceptions.

CRM-A-1510-MA-2016

The complainant has filed the present appeal against the judgment of acquittal dated 09.01.2015 passed by the Judicial Magistrate Ist Class, Bhiwani.

The complainant has sued his four brothers, mother and two other persons, claiming that his father Phool Chand has executed a registered will dated 19.12.1992 in his favour and that his brothers accused Nos. 1 to 4 forged an unregistered Will

bearing No. 334 dated 31.12.1997 in connivance with the accused No. 5 (mother of the complainant) and other witnesses. Phool Chand, the father of the accused died on 08.01.1998.

Heard.

Before the lower court, reliance was placed on the statement made by S.S. Malik, Handwriting and Finger Print expert. The expert had compared the thumb impression on the disputed Will (Q-1) and opined that the thumb impressions of the Phool Chand on the disputed Will are affixed through mechanical process. He went on to opine that thumb impressions on the Will (Q1) is improperly inked for which formulation of ridges is not distinct, hence unfit for comparison. Once the thumb impressions are unfit for comparison, the opinion of the expert cannot be believed that it is a case of transfer of thumb impression through mechanical process. Under the criminal law, the offence is to be proved beyond all reasonable doubts. On the basis of mere suspicion, the judgment of acquittal cannot be interfered with.

The learned Judicial Magistrar, Ist Class, Bhiwani, has taken one of the two possible views and there is no illegality and perversity in the same. Hence, the application for leave to appeal is dismissed.

April 25, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**