

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.A-1570-MA of 2015 (O&M)
Date of decision: February 25, 2016

Amritsar Development Authority

...Applicant

Versus

Kashmir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kushagra Mahajan, Advocate
 for the applicant.

INDERJIT SINGH, J.

CRM No.30669 of 2015

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 268 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-1570-MA of 2015

Applicant-Amritsar Development Authority has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Kashmir Singh and other respondents, challenging the impugned judgment dated 18.10.2014 passed by learned Judicial Magistrate Ist Class, Amritsar, whereby the accused-respondents were acquitted.

It is mainly stated in the application that accompanying appeal is likely to succeed on the grounds taken therein. It is further stated that impugned judgment is against the law, facts and injustice

having been done to the applicant. The impugned judgment is not based on a complete or comprehensive appreciation of all the features of the case. It is, therefore, prayed that leave to file appeal be granted.

I have heard learned counsel for the applicant and have gone through the record.

As per the record, the complainant Amritsar Development Authority filed a complaint against accused Kashmir Singh, Sewa Singh and Mewa Singh under Section 36 read with Sections 3, 5, 8, 9, 14(2), 15, 18 and 21 of the Punjab Apartment and Property Regulation Act, 1955 and section 120-B IPC. As per complainant's version, accused persons being the owner of land as described in the complaint, have set up a colony by dividing the aforesaid land into plots which is more than 1000 sq. meter in connivance with each other without obtaining licence or permit for residential, commercial and industrial purposes and as such they have committed offence under aforesaid Sections.

After appreciating the evidence, learned Judicial Magistrate Ist Class, Amritsar, acquitted the accused-respondent vide impugned judgment dated 19.09.2014.

The perusal of the impugned judgment shows that it is held by learned JMJC, Amritsar that complainant has only placed on record jamabandi as Ex.C10, in which the mutations with respect to the sale of the land by the accused persons in favour of different persons have been mentioned. Learned Magistrate, while

appreciating the evidence held that no cogent documentary evidence has been produced. No site plan has been placed on record to show that colony has been developed. No photographs have been placed on record. No certified copies of sale deeds have been obtained and placed on record. The photocopies of sale deeds cannot be read into evidence. The Court also held that no documentary evidence has come on the record in support of the averments of the complaint that the land has been sold in plots to various persons to set up a colony. Therefore, learned JMIC, Amritsar, acquitted the accused.

I have gone through the impugned judgment. In no way, the findings can be held as perverse. Rather, the findings have been given while appreciating the evidence in right perspective. The findings given by learned Court below are correct and as per law. There is nothing on the record that any material evidence has been misread nor there is anything to show that any material evidence has not been considered by the Court below.

In view of the above discussion, I find that the impugned judgment dated 18.10.2014 passed by learned JMIC, Amritsar, is correct, as per law and evidence and does not require any interference from this Court.

Keeping in view above facts and circumstances, I find that no ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

February 25, 2016
Vgulati

(INDERJIT SINGH)
JUDGE