

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No.A-1661-MA of 2014

Date of Decision : January 11, 2016

Moji Ram

.....Applicant

Versus

State of Haryana and others

....Respondents

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

Present : Mr. S.S. Kharab, Advocate
for the applicant.

T.P.S. MANN, J.

Complainant Moji Ram has filed the present application under Section 378(4) read with Section 372 of the Code of Criminal Procedure for grant of special leave to appeal against the judgment dated 19.8.2014 passed by learned Judicial Magistrate 1st Class, Pehowa whereby respondents No.2 to 4 stand acquitted of the charges under Sections 465/467/468/471/420/120-B IPC.

The case of the complainant while filing the criminal complaint was that he was owner of land measuring 7 kanals 3 marlas situated in khewat No.21 and 22 in village Shahpur, Tehsil Pehowa, District Kurukshetra. His father Pohlu Ram was also owner in possession of land measuring 14 kanals 6 marlas and after his death, the said land was inherited by the complainant and his mother Mamo

Devi in equal shares. After the death of Mamo Devi on 1.9.1992, the complainant applied to the revenue authorities for sanctioning of mutation in his favour. However, respondents No.2 to 4 as well as Mehar Chand (since deceased and, accordingly proceedings against him were dropped), in criminal conspiracy with each other and with malafide intention, had produced a forged Will dated 30.8.1991 before the revenue officials, which was shown to have been attested by Buta Singh and Zile Singh. The complainant enquired from the attesting witnesses about the forged Will. Zile Singh gave his affidavit that alleged Will dated 30.8.1991 was totally wrong, forged and fabricated and had been prepared by the accused one month before 25.7.2005. His signatures were obtained by fraud and concealment of facts. According to the complainant, the alleged Will was fake and forged because the date mentioned on the alleged Will was 30.8.1991 whereas the accused had obtained thumb-impression of Zile Singh one month prior to 25.7.2005. Similarly, Buta Singh, the other attesting witness also gave affidavit dated 4.8.2005 to the effect that he had not signed the Will dated 30.8.1991 by way of attestation, executed by Mamo Devi in favour of accused Lakhmi. The accused had forged and fabricated his signatures on the Will dated 30.8.1991. It was also pleaded by the complainant that forged documents had been used by the accused before revenue authorities and when the complainant enquired into the matter, mutation No.577 had been made disputed

by the Patwari and the matter pending before Sub Divisional Magistrate, Pehowa.

Having heard learned counsel for the complainant/ applicant, this Court finds that for proving the alleged forgery, the complainant had examined CW7 Shri R.V. Vashisth, Handwriting and Fingerprints Expert, who after comparing the disputed thumb-impressions on alleged Will of Mamo Devi with the standard thumb-impression of Mamo Devi on the execution petition dated 18.12.1995, opined that the disputed thumb-impressions were basically different from standard thumb-impressions whereas, DW1 Shri Ram Dhan Babbar, Handwriting and Fingerprints Expert opined that the disputed thumb-impressions of Mamo Devi were identical with her standard thumb-impressions. Thus, the experts of the parties had given contrary findings. However, when the complainant admitted about Mamo Devi having executed power of attorney, written statement and also made statement in the Court, which bore her thumb-impressions, he did not make an attempt to get those thumb-impressions compared with the disputed thumb-impressions on the Will, executed by Mamo Devi. The complainant remained contented with getting the disputed thumb-impressions compared with those affixed on the execution file. For those reasons, the trial Court concluded that the complainant failed to prove that the disputed thumb-impressions on Will dated 30.8.1991 were not of Mamo Devi.

As regards the signatures of Buta Singh appearing on the Will dated 30.8.1991 as an attesting witness, it may be worthwhile to mention here that during his cross-examination Buta Singh identified his signatures on the Will dated 30.8.1991 and also stated that Mamo Devi had executed the Will in his presence and put her thumb-impressions after understanding the contents of the Will. Further, merely because the alleged Will had been produced after a long time of its execution is not sufficient to conclude that it had been forged and fabricated by the accused. At the same time, the complainant has remained unsuccessful in establishing the charge under Sections 420/120-B IPC.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

The application is without any merit and, accordingly, dismissed. Special leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

Jaunary 11, 2016
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