

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1680-MA-2014

Date of decision: 29.03.2016

Sarlochan Singh

..... Applicant

Versus

Taran Singh and others

..... Respondents

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

1. *Whether Reporters of the local papers 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?*

PRESENT: Mr. Rajesh Sethi, Advocate
for the applicant.

RAMENDRA JAIN, J.

Being aggrieved from the judgment dated 06.08.2014, passed by the learned Judicial Magistrate Ist Class, Dera Bassi acquitting the respondents, complainant-Sarlochan Singh has filed the present application under 378(4) Cr.P.C. seeking leave to file the appeal.

2. In nutshell, respondents were charged-sheeted and tried under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code (IPC) on a private complaint filed by the applicant. It was alleged that on

the basis of a forged and fictitious general attorney dated 28.01.1997, allegedly executed by the applicant, his mother, sister and brothers, respondent No. 1 in connivance with Hazura Singh, Lambardar of village Banur had sold their land to respondents No. 2 and 3, namely, Amar Singh and Rajan Kapoor vide sale deed dated 04.02.1997 with a view to cause wrongful loss to them. It was also alleged that their signatures were obtained on some blank papers by misrepresentation with an intention to defraud them. Despite the matter being brought to the notice of the police, it did not take any action against the respondents.

3. After complete trial, the learned trial Court did not find itself convinced with the allegations levelled by the applicant against the respondents and thus dismissed his complaint vide impugned judgment dated 06.08.2014.

4. 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 the alleged general attorney was a forged and fictitious document. It also did not consider the fact that Khasra Nos. 602 and 609 were added afterwards fraudulently in the sale deed in question after its registration. The learned trial Court has erred in ignoring the cogent and convincing evidence led by the applicant, while acquitting the respondents.

5. After giving our thoughtful consideration to the submissions made by learned counsel for the applicants, we find no merit in the instant application for the reasons to follow.

(i) Admittedly, the general attorney in question

Ex. DW-1/A is a registered document. There is always an endorsement of the Sub Registrar on every registered document that the document was registered after reading over its contents to the executant. Hence, presumption of truth is attached to the general attorney in question that it was read over to the applicant, his mother, sister and brothers, before registering it.

- (ii) The impugned general attorney Ex. DW-1/A contains the photographs of the applicant as well as attesting witnesses and the purchasers. The applicant has miserably failed to explain as to how and when, the respondents came into possession of photographs of 5 persons. Hence, bald plea of the applicant about the committing of forgery and cheating with him and his family members has no legs to stand. The applicant has miserably failed to prove the ingredients of cheating and fraud, beyond any reasonable shadow of doubt.
- (iii) The factum of non-appearance of 3 executants of the general attorney to corroborate the testimony of the applicant had weighed much in the mind of the learned trial Court. It has been observed that they were also equally aggrieved by the alleged act of respondents, and, thus, their silence in not appearing in the witness-box requires to draw an adverse inference that they did

not choose to adopt any such exercise, knowing well that the impugned general attorney being executed by them was a genuine document.

6. Learned counsel for the applicant has failed to put any dent in any of the findings of the learned trial Court. In view of the discussion above, we are also not inclined to differ with any of the findings of learned trial Court.

7. The instant application being completely devoid of any merit is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

March 29, 2016

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