

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

**CRM-A-1792-MA-2014 (O&M)
Date of Decision: January 07, 2016**

Devender Kumar

.... Applicant

vs.

Rajinder Kumar Chaudhary

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vivek Khatri, 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)

The applicant had challenged the order dated 06.10.2014 passed by learned Judicial Magistrate 1st Class, Hisar, vide which his criminal complaint filed under Sections 420, 467, 468, 471 and 506 IPC has been dismissed.

According to the complainant, he had filled up an application form for allotment of HUDA plot in Sector 13, Part-II, 16 & 17, Hisar. Thereafter, a plot bearing No.825 was allotted to the complainant on 05.10.2010. It is stated that the complainant had faith in the accused, who was employed in the bank. As the charges for preparing the draft are not levied from the employees of the bank, therefore, the complainant gave money to the accused to prepare the bank draft. However, it is alleged that accused had directly deposited the amount in the HUDA account and later on, filed a civil suit claiming to be '*benami owner*' of the said plot. The said suit was dismissed.

After recording the preliminary evidence, the accused was summoned. Thereafter, pre-charge evidence was recorded. Later on, accused was charge-sheeted under Sections 465 and 471 IPC. After recording the further evidence, the statement of the accused under Section 313 Cr.P.C. and the defence evidence were recorded. The arguments were heard and the complaint was dismissed.

I have heard learned counsel for the applicant and have also carefully gone through the case file.

Before the lower court, the accused had admitted that he had written the name of the complainant in the applications (Ex.P1 to P5) for depositing of the amount. It comes out that the amount was deposited on behalf of the complainant, though in cash. The plot was allotted to the complainant, who had further sold it. Therefore, no cheating was done with the complainant.

It also comes out that special power of attorney (Ex. D7) was executed by the complainant in favour of his father Sadhu Ram and accused Rajinder Kumar regarding the said plot bearing No.825 which means that the complainant had authorized the accused along with his father to alienate or transfer the said plot. The only allegation survives for consideration is as to whether any forgery was done or not?

The accused has taken the stand that he had merely mentioned the name of the complainant in the applications for depositing the installments on behalf of the complainant. The complainant had also executed a special power of attorney in favour of the accused. Thus, there is no illegality in the findings recorded by

the lower court holding that the complainant has to prove the charges levelled against the accused beyond reasonable doubts. As such, the present application for leave to appeal is declined. Consequently, the present appeal also stands dismissed.

January 07, 2016
sarita

(KULDIP SINGH)
JUDGE