

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-742-MA-2015 (O&M)

Date of decision: 09.05.2016

Devender

..... Applicant

Versus

Sheo Parshad 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. Ajay Vijrania, Advocate
for the appellant.

RAMENDRA JAIN, J.

CRM-14351-2015

Heard.

Sufficient cause has been shown to condone the delay in applying for leave to appeal. The application is, therefore, accepted. The delay of 20 days in applying for leave to appeal is condoned.

CRM-A-742-MA-2015

On the private complaint of applicant-Devender, the respondents were charge-sheeted and tried under Sections 420, 467, 468, 471, 120-B, 506 of the Indian Penal Code (IPC) by the learned Judicial Magistrate Ist Class, Charkhi Dadri on the allegations that respondent

No. 1-Sheo Parshad and one Shiv Kumar husband of respondent No. 2-Smt. Gindori and father of respondents No. 3 to 7, had transferred their entire share measuring 18 kanals, out of the total land measuring 89 kanals 16 marlas in favour of Hari Parshad grand father of applicant, therefore, had left with no right, title or interest in the same. Despite it, they had sold 6 kanals 2/3 Marla of the land to one Naveen Kumar and Parveen Kumar vide sale deed No. 748 dated 09.06.2008, after getting entered rapat No. 212 dated 01.02.2008 and sanctioning mutation of inheritance of Hari Parshad fraudulently in connivance with respondents No. 9 to 11 and thus, had committed forgery, cheating and fraud with the applicant and his family.

2. The evidence led by the applicant could not convince the learned Magistrate and thus, vide impugned judgment dated 23.12.2014, all the respondents were acquitted.

3. Being aggrieved, the applicant has filed the present application under Section 378(4) Cr.P.C. seeking leave to file the accompanying appeal.

4. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. The land measuring 18 kanals was jointly owned by the applicant, respondent No. 1-Sheo Parshad and Shiv Kumar-husband of respondent No. 2 and father of respondents No. 3 to 7. However, respondent No. 1 and aforesaid Shiv Kumar had relinquished their entire rights in the aforesaid land in a family settlement in favour of Hari Parshad grand-father of the applicant vide judgment and decree dated 23.05.1988. Despite that, they

sold 6 kanals 2/3 marla of the land to Naveen Kumar and Parveen Kumar in connivance with the remaining respondents. Hence, it was well proved on the record that all the respondents had committed forgery and cheating by executing a forged sale deed No. 748 dated 09.06.2008 and getting sanctioned mutation thereof to cause wrongful loss to the applicant. The trial Court has failed to appreciate the foolproof evidence led by the applicant qua the above offences committed by the respondents.

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

- (i) Naveen Kumar and Parveen Kumar, vendees were the beneficiaries of the alleged fraud, forgery and cheating. However, at the fag end of the trial, the applicant withdrew his complaint against them and thus, both of them were exonerated and proceeding were dropped against them. The above conduct of the applicant falsified his entire claim.
- (ii) That apart, perusal of the impugned judgment shows that at the fag end of the trial, father of the complainant gave their due share to the aforesaid Naveen Kumar and Parveen Kumar. This fact clearly indicates that aforesaid vendees were legally entitled to the land pursuant to the sale deed executed by respondent No. 1 and Shiv Kumar ancestor of respondents No. 2 to 7.

Hence, the transaction in between respondent No. 1 and Shiv Kumar on one hand and aforesaid Parveen Kumar and Naveen Kumar on the other hand was genuine without any fraud or cheating on the part of any of the respondents. The Court below has also observed that act and conduct of the applicant, his father and grand father itself shows that the beneficiaries were entitled to the land mentioned in the sale deed as the applicant himself gave the statement about its genuineness.

(iii) No evidence has been led by the applicant qua the offences under Sections 120-B and 506 IPC and thus, respondents have rightly been acquitted under the aforesaid offences.

6. We have gone through the impugned judgment and found no illegality or perversity in the same.

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

May 09, 2016
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