

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

**CRM-M No.32823 of 2010
Date of Decision : 10.05.2016**

Clarance Bansi Lal

.....Petitioner

Versus

John Christopher and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. **Whether reporters of local newspaper may be allowed to see judgment?**
2. **To be referred to reporters or not?**
3. **Whether the judgment should be reported in the digest?**

Present : Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Hemender Goswami, Advocate
for respondents No.1, 3, 4, 9, 17 and 19.

Mr. Rajan Lakhanpal, Advocate
for respondent No.14.

FATEH DEEP SINGH, J.

A criminal complaint titled as “Clarance Bansi Lal Moderator of UCNI Punjab Synod and another Vs. John Christopher and others” under Section 467, 468, 471, 419, 420, 120-B IPC was preferred by the complainant/present petitioner against the accused/respondents. The precise allegations are that the United Church of Northern India (U.C.N.I.) Punjab Synod was a duly registered Society under the Societies Registration Act, which

controls and governs the properties of area of Punjab Synod. The U.C.N.I. formed a Company under the name and style of "United Church of Northern India Trust Association (UCNITA) with a view to enable them to look after and manage the properties of the principal body. The allegations in precise levelled by the complainant/present petitioner are that the accused/respondent with a mala fide intention forged the resolution, Power of Attorney and deeds of the property of the complainant/present petitioner for the personal gains and thus caused undue loss to the principal and therefore on account of this criminal conspiracy and breach of trust and cheating the complainant/present petitioner has moved the local police but they failed to initiate action and hence, the complaint in question.

The complainant/present petitioner, to prove the allegations examined himself as CW-1 and proved documents Exhibits C-1 to C-42 and thereafter, closed the evidence. The Court of learned Sub Divisional Magistrate, Samrala, vide orders dated 22nd September, 2006 dismissed the complaint holding that the alleged forged documents have not been placed on record and, thus, there was no prima facie case to prove forgery or cheating.

The complainant/present petitioner filed a revision petition and through impugned orders dated 08.06.2010, the Court of learned Additional Sessions Judge, Ludhiana dismissed the revision on the same very grounds and the operative part of these findings deserves to be reiterated to lay emphasis

.....ld. trial court has rightly observed that the

revisionist/complainant had not placed on record any document allegedly forged by the respondents to prima facie prove a case against them and therefore the ingredients of cheating or forgery were not fulfilled.....

That is how the parties are before this Court in this petition under Section 482 Cr.P.C.

Heard Mr. Sanjay Jain, Advocate for the petitioner, Mr. Hemender Goswami, Advocate for respondents No.1, 3, 4, 9, 17 and 19 and Rajan Lakhanpal, Advocate for respondent No.14 and perused the records of the case.

The contentions of Mr. Sanjay Jain, Advocate for the petitioner that the two Courts below have totally misinterpreted the evidence and without considering the material documents placed on the records, have come to an unjustified and illegal conclusion that no such document was proved on the record and the findings of the learned Magistrate that the complainant has not placed on record any such resolution which he claims to be a forged one nor any agreement to sell which too as per the stand of the complainant/present petitioner, is a forged document, are contrary to the very impugned judgment. It finds mentioned in the opening lines of Para 3 where these documents are well elaborated and even Exhibited as C1 to C42. Similarly, the counsel has assailed the findings of the impugned judgment dated 08.06.2010 in revision by the learned Additional Sessions Judge to the same very effect.

Though, on behalf of the respondent a faint attempt has sought to be made by the counsel to controvert the contentions of the counsel that no offence was made out who has readily conceded the fact that all these documents are in the preliminary evidence on the record.

Appreciating, the arguments of the two sides, though exercise of inherent powers of this Court under the very provisions of Section 482 Cr.P.C. is a rarity in view of the settled position of law laid down in ***State of Haryana and others Vs.Ch. Bhajan Lal and others, 1992 AIR (SC) 604***, however, at the same time where the ends of justice demand in exceptional circumstances, the Court can exercise the same and no strait-jacket formula can be laid down for the same. It is well writ large on the records that all these documents which form the very backbone of the allegations of the complainant/present petitioner which he claims are forged and fabricated are well proved in the preliminary evidence as Exhibit C1 to C42 and therefore, the two Courts below have clearly lost sight of the same. What meets the eye that apparently the learned Revisional Court on misconstrued notion has taken at the very face of the findings of the learned trial Court and has jumped to this conclusion without pursuing the records and inoblivion that all these documents were well placed and proved on the records of the Court below and, thus, by doing so the impugned findings certainly run into an error causing immense prejudice to the case of the petitioner before this Court, causing miscarriage of justice, thus, necessitating intervention by this Court. Keeping in view that there has certainly

been a failure of justice, impels this Court to set aside both these findings and to remand the matter to the trial Court to consider the same afresh in the light of the preliminary evidence that has been proved on the record and to give afresh findings in accordance with law.

In view of the same, the instant petition is allowed to that extent.

Parties through their counsel are directed to appear before the trial Court on 18.07.2016.

Records of the trial Court be sent back.

May 10, 2016
Dpr

(FATEH DEEP SINGH)
JUDGE