

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

CRM A-2154-MA of 2016

Date of Decision : October 11, 2017

Kaur Singh (Blind) through his wife Baljit Kaur

.....Applicant

VERSUS

Mohinder Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present : Mr. Bhavyadeep Walia, Advocate
for the applicant.

T.P.S. MANN, J.(Oral)

Respondent-Mohinder Singh was tried for committing offences punishable under Sections 467 and 471 IPC. Vide judgment and order dated 15.7.2014, learned Judicial Magistrate 1st Class, Phul convicted him for the aforementioned offences and sentenced him to undergo imprisonment for two years and to pay a fine of Rs. 3,000/- on each of the two counts. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the respondent filed an appeal. Vide judgment dated 2.1.2016, learned Additional Sessions Judge, Bathinda acquitted the accused/respondent of the charges against him by observing as follows:-

“I have heard the rival submissions and have perused the record carefully. Since in this case, the original questioned pronote was not produced by the complainant and only certified copy of the pronote was produced and on the basis of which, the Expert witness gave his opinion, but this court fails to understand that on what basis the Expert witness has given evidence, when the original pronote was not produced before him for comparison. Moreover opinion of the Expert witness is not binding on the court and the court has to arrive at its finding independently. Further the complainant has admitted that the matter was compromised with the appellant and suit for recovery has been withdrawn, so no wrongful gain has accrued to the appellant/accused by making cutting on the alleged pronote. Further no independent corroboration has been made, as Kaur Singh, who was the best witness, was not examined by the complainant, which causes doubt in the story of the complainant. Further no independent evidence has been led by the complainant that it was the appellant, who made the alleged cutting, as

no person has come forward to depose that the said cutting was made on the alleged pronote by the appellant/accused Mohinder Singh. But, the trial court has ignored all these material facts and convicted the appellant/accused”.

There is no denial of the fact that Kaur Singh was the best witness in the case who could have proved the prosecution case but he was not examined at the trial of the case. Under these circumstances, no fault can be found with the impugned judgment of acquittal passed by the lower Appellate Court.

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

(T.P.S. MANN)
JUDGE

October 11, 2017
ajay-1

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No