

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

221

CRM-A No.1666-MA of 2017 (O&M)
Date of Decision: November 6th, 2017

Sahabuddin

...Applicant

Versus

Rakesh Kumar @ Kapil Dagar and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Vikas Chaudhary, Advocate, for the applicant.

M.M.S. BEDI, J. (ORAL)

CRM No.24621 of 2017

For the reasons mentioned in the application, delay of 220 days in filing the appeal is condoned.

The miscellaneous application stands allowed.

CRM-A No.1666-MA of 2017 (O&M)

Applicant-complainant has sought grant of special leave to appeal under Section 378(4) Cr.P.C., aggrieved by the acquittal of respondents in a private complaint, whereby two other accused named in the complaint were declared proclaimed offender.

The subject matter of the complaint and the allegations were found false by the police vide police report dated 06.03.2009 Exhibit PW-2/Z. The applicant-complainant had filed the complaint alleging that the respondents and two others with oblique motives had grabbed the plot of minor namely Afsana Khatoon by obtaining her signatures on blank papers. As per the allegations/complaint, Afsana Khatoon was minor at the time of signing the transfer deed. The applicant-complainant alleged that on the basis of the signatures of Afsana Khatoon, obtained on blank papers, permission to transfer the plot was obtained and later on, plot was registered in favour of

respondent No.1 by producing respondent No.2 and two other proclaimed offenders as witnesses.

Respondents were charge-sheeted under Sections 420, 406, 467, 468, 471 and 120B IPC and evidence was produced by the applicant as well as the respondents in accordance with law. On appreciation of evidence, benefit of doubt has been granted to the respondents on the ground that the story of the complainant put forth is improbable.

Undisputedly, Afsana Khatoon was the owner of the property in dispute. She had purchased the same from Jeet Ram vide transfer deed Exhibit P-2/A and the same was later on transferred by her in favour of respondent No.1. The sale deed/transfer in favour of respondent No.1 was challenged on the ground that Afsana Khatoon daughter of Sahabuddin-complainant was minor at the time of transfer and that signatures of Afsana Khatoon had been obtained on blank papers which were used for effecting the transfer of the plot in favour of the said respondent after submitting the same before HUDA department.

After considering the facts and evidence, the trial Court arrived at the conclusion that a case of civil liability has been sought to be converted into a case of criminal liability by filing the private complaint. While purchasing the property, Afsana Khatoon did not mention that she was minor or that the purchase was made in her name wrongly or it was bad on account of sale deed having not been executed in her favour through her legal/natural guardian.

After going through findings of the trial Court, we are of the opinion that on fair appreciation of the evidence produced before the Court, the trial Court has rightly granted benefit of doubt to the respondents. It was rightly not believed by the trial Court that a transfer deed which was executed

in 2005 could be questioned by launching criminal proceedings in 2009.

No ground for interference in order of acquittal passed by the trial Court rendered vide judgment dated 23.09.2016 is made out.

The application seeking special leave to appeal accordingly fails and is dismissed as such.

(M.M.S. BEDI)
JUDGE

November 6th, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No