

CRM-A-332-MA-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-332-MA-2016

Date of Decision: October 30th, 2017

Parduman Gautam

...Applicant

Versus

Ashwani Kumar & others

...Respondents

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

Present: Mr. J.B.S. Gill, Advocate
for the applicant.

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

At the instance of applicant-complainant Parduman Gautam, an FIR was registered against respondents No.1 to 11 alleging that Tarsem Lal son of Bihari Lal, who remained unmarried, was missing and his whereabouts were not known. As such, the private respondents allegedly conspired with Nambardar Kishan Lal, Patwari Kashmiri Lal, Saroj Bala and Ashwani Kumar, to grab the property of Tarsem Lal. In pursuance to their conspiracy, Sukhpal allegedly procured the death certificate from the office of Addl. District Registrar, Birth and Death, Hoshiarpur, showing the date of death of Tarsem Lal as 23.11.1996 and place of death at village Golian, Post office Wahadpur, Police Station Garhshankar, District Hoshiarpur.

The trial Court had convicted all the private respondents holding them guilty on the basis of the prosecution evidence that the death

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certificate (Ex.P/Y) was not genuine and the onus shifted upon the accused to prove that either the document submitted by them was genuine or that they did not have the reason to believe the said document to be forged. The trial Court sentenced the private respondents for offences under Sections 467, 468, 471 and 420 of the Indian Penal Code.

The lower Appellate Court has reversed the findings and passed acquittal order on the following grounds: -

- i) Neither any of the prosecution witnesses had seen the death certificate nor any prosecution witness had seen any of the accused preparing the alleged death certificate of Tarsem Lal.
- ii) There was no evidence which has been proved on record to show the inducement having been caused by any of the accused to any of the person or to the complainant.
- iii) No loss was shown to have been caused to the complainant by any of the accused persons.
- iv) The prosecution had miserably failed to show and explain that how the death certificate came into the possession of the police and who had handed over the alleged copy of death certificate of Tarsem Lal to the police when admittedly, witnesses of the prosecution stated that they had not produced the death certificate of Tarsem Lal to the police.”

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We have gone through the judgment passed by the lower Appellate Court as well as the judgment of conviction passed by the trial Court and are of the opinion that the lower Appellate Court has rightly granted the benefit of doubt to the private respondents.

After hearing counsel for the applicant-complainant at length, we are not satisfied that there is sufficient evidence on record indicating that any of the private respondents had obtained any wrongful gain with corresponding wrongful loss to the complainant or any other person on the basis of alleged death certificate, which could have been proved to be prepared or used in any manner by the private respondents. The sale deed (Ex.PW-4/A) by LRs of Tarsem Lal seems to be a genuine document regarding alienation of the property. Till date, the whereabouts of Tarsem Lal are not known, whereas, he is established to be unheard from 1996.

No ground is made out to interfere in the order of acquittal passed by the lower Appellate Court. Hence, the prayer for special leave to appeal is declined and the application is dismissed.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

October 30th, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No

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