

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-623-MA of 2016

DATE OF DECISION: MARCH 2, 2017

MOHINDER SINGH (SINCE DECEASED)
THROUGH L.R.s

...APPLICANT

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI.

PRESENT: MR. GURCHARAN DASS, ADVOCATE FOR THE APPLICANT.

M. JEYAPPAUL, J.

1. Aggrieved by the acquittal of respondents No.2 and 3 for the offences under Section 406, 420, 467, 468, 471, and 120-B IPC, the legal representatives of Late Mohinder Singh have filed the present application for special leave to prefer an appeal.

2. The case of the complainant is that Sampuran Singh, father of Mohinder Singh, was the original owner of an agricultural land situated in village Taharpur. Sampuran Singh died on 1.9.2004. However, later, on an enquiry, it was revealed that he was murdered. A criminal case was launched against respondents No.2 and 3 and one Rajinder Singh under Sections 364 and 302 read with Section 34 IPC for the murder of Sampuran Singh. But giving benefit of doubt, they were acquitted by the trial Court. Respondent No.2 by hatching a criminal conspiracy with respondent No.3, forged and fabricated the agreement to sell dated 27.11.2003, as though it was executed by late Sampuran Singh, the father of Mohinder Singh. On 17.9.2004, accused Gulzar Singh

entered into an agreement to sell his land with the complainant and his brothers. Had there been any agreement to sell executed by Sampuran Singh in favour of respondent No.2, the latter would have specifically referred with respect thereto in the above agreement dated 17.9.2004. Mohinder Singh came to know of the alleged agreement executed by Sampuran Singh in favour of respondent No.2 only upon service of the legal notice. Respondent No.2 Gulzar Singh filed a suit for specific performance. Complainant Mohinder Singh obtained photocopy of the alleged agreement entered into between his father Sampuran Singh and Gulzar Singh and compared the signature of Sampuran Singh with standard signature. Respondents No.2 and 3, having hatched a criminal conspiracy, forged and fabricated the agreement for sale in order to grab the land of the complainant without any sale consideration.

3. On the side the complainant, CW-1 to CW-4 were examined. CW1 Jagdish Kumar was the stamp vendor who has deposed that he supplied stamp paper in the name of Sampuran Singh as per the entry made in his register. CW2 Rashipal Singh Mann stated that on 17.9.2004 accused Gulzar Singh entered into an agreement for sale of his land with complainant Mohinder Singh. He also admitted the fact that the civil suit for specific performance filed by Gulzar Singh on the basis of the agreement for sale dated 27.11.2003 executed by Sampuran Singh was decreed in favour of accused Gulzar Singh and an appeal preferred by the complainant was dismissed by the appellate Court. CW3 Dr. Jassy Anand who was a handwriting expert deposed that he had an occasion to compare the standard signature of Sampuran Singh only with the signature found in the photocopy of the agreement for sale dated 27.11.2003. CW4 Sukhwinder Singh was none other than the son of

complainant Mohinder Singh who had not even read the contents of the complaint lodged by his father Mohinder Singh. The original agreement for sale executed by his grandfather Sampuran Singh was not placed in the Court file, he has deposed.

4. We heard the elaborate submissions made by learned counsel appearing for the applicant.

5. There is no dispute to the fact that Gulzar Singh, respondent No.2 herein filed a suit for specific performance against legal representatives of the deceased complainant and got a decree in his favour. The appeal preferred there against also was dismissed. In other words, the trial Court as well as the appellate Court have returned a concurrent finding that Sampuran Singh in fact did execute the subject agreement for sale on 27.11.2003 in favour of respondent No.2 Gulzar Singh, rejecting the plea of the complainant party that the said agreement for sale was forged and fabricated. As rightly pointed out by the trial Court, the above findings concurrently given by the civil Court bind the criminal Court. The proof required for establishing the charge of forgery and fabrication alleged in the criminal case is more onerous inasmuch as such a plea will have to be established beyond reasonable doubt. In fact, the witnesses to the said document were examined in the civil proceedings and based thereupon, a decree for specific performance was granted by the trial Court.

6. In the present case, the complainant party made an attempt to establish the allegation for forgery and fabrication of the agreement for sale dated 27.11.2003 based on the evidence of CW3 Dr. Jassy Anand, Handwriting Expert. But unfortunately, CW3 had an occasion to compare the standard signature of Sampuran Singh only with the signature found in the photocopy of

the agreement for sale. In other words, the original agreement executed by Sampuran Singh was not subjected to scientific scrutiny of CW3. Under such circumstances, the expert's evidence loses its credibility. That apart, there is no acceptable evidence to bring home the charge of fabrication and forgery to the accused.

7. The later agreement for sale dated 17.9.2004 executed by accused Gulzar Singh in favour of complainant Mohinder Singh would not establish the charge of forgery and fabrication alleged against the accused.

8. Of course, the counsel appearing for the applicant submits that second appeal has been preferred as against the concurrent verdict passed by the trial Court as well as the first appellate Court challenging the decree of specific performance passed in favour of Gulzar Singh. The pendency of the appeal does not, in any way, strengthen the case of the complainant, inasmuch as the complainant party failed to prove beyond reasonable doubt the charge of forgery and fabrication levelled against respondents No.2 and 3.

9. In view of the above facts and circumstances, we are of the considered view that the trial Court has rightly recorded a verdict of acquittal. There is no merit in the present application seeking special leave to file an appeal. Therefore, the application stands dismissed.

(M. JEYAPPAUL)
JUDGE

March 2, 2017
Gulati

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether Speaking/Reasoned : Yes
Whether Reportable : No