

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.11310 of 2016  
and  
Criminal Misc. No.A-690-MA of 2016

.....

Date of decision:9.1.2017

Kamla

...Applicant

v.

Sandeep and others

...Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

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Present: Mr. Baldev Singh Dhillon, Advocate for the applicant.

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**Inderjit Singh, J.**

Cr. Misc. No.11310 of 2016:

For the reasons mentioned in the criminal miscellaneous application, the delay of 730 days in filing this application and the accompanying appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-690-MA of 2016:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Sandeep and others-respondents/accused for grant of leave to appeal against the judgment dated 1.2.2014 passed by learned Additional Chief Judicial Magistrate, Jind, vide which the accused have been acquitted of the charges framed under Sections

420, 468 read with Section 34 IPC.

It is mainly stated in the application that the learned Additional Chief Judicial Magistrate, Jind vide judgment dated 1.2.2014 has acquitted the respondents/accused of charges framed under Sections 420, 468 read with Section 34 IPC illegally and arbitrarily without considering the whole evidence produced by the applicant/complainant. It has been stated that sufficient evidence and strict proofs are available on the case file to convict the respondents which have not considered by the learned Additional Chief Judicial Magistrate, Jind. It has been prayed that leave to file appeal may be granted.

From the record, I find that Kamla-complainant filed complaint against Sandeep, Raj Kumar, Rameshwar Lambardar, Concerned Registry Clerk and Sub Registrar, Jind, District Jind for the offences under Sections 420, 467, 468, 471, 120-B and 506 IPC. The brief facts as noted down by the learned Additional Chief Judicial Magistrate, Jind in the judgment dated 1.2.2014 are as under:-

“The present complaint was filed by the complainant against the accused mentioned above under Sections 420/467/468/471/ 120-B/506 IPC and it was alleged that the complainant is the daughter of late Puran son of Bhag Chand and was married with Amrit Lal son of Lichhman Dass at Kaithal. It was further submitted that she is sole surviving legal heir of her father and accused No.1 is the cousin brother being son of Rattan son of Bhag Chand who is real uncle of the complainant. The

complainant had inherited 41 kanals 4 marlas land in village Kandela after the death of her father and mutation No.2250 had been entered and sanctioned in this regard. The above said land is situated in many khewats and is still joint among co-sharers and the same has not been partitioned by metes and bound. The accused No.1 had an evil eyes on the said land and with a motive to grab it he asked the complainant on 29.4.2010 for coming at Jind under a pretext that the joint land was to be got partitioned and then he had taken the complainant at the shop of Vikram Goyal, Document-writer and without the consent and permission of complainant he got scribed a release deed in respect of her 41 kanals 4 marlas land vide which the complainant had been shown to have relinquished her share in favour of accused No.1 and further he had shown himself to be real brother of complainant by mentioning his father's name as Puran, but in actual he is the son of Rattan Singh son of Bhag Chand. It is further alleged that the document-writer after preparing the release deed had asked her as to whether she was happy in transferring her land in the name of accused No.1 and then she was shocked to hear so and disclosed that she had come only for getting the suit land partitioned and then the document-writer denied to enter the release deed in his register. She had also told the document-writer that accused No.1 was not her real brother. However, the document already scribed

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was obtained by the accused No.1 and he did not disclose any reason to the complainant for returning back to village without getting the land partitioned. It is further submitted that the complainant is a simpleton old aged lady, therefore, she could suspect any foul play. On 6.7.2010 accused No.1 again came to the house of complainant and brought her to Tehsil Office on the same pretext and on that day accused No.2 and 3 were also present and accused No.1. to 5 in collusion with each other, without disclosing the real facts, got executed and registered a release deed from her which was drafted on 29.4.2010 and the same was registered vide vasika No.1526 dated 6.7.2010 and from that release deed, accused No.1 got transferred 41 kanals 4 marlas land of complainant in his favour in collusion with other accused and this fact came to the knowledge of complainant only when accused No.1 tried to take forcible possession of the land in question and also tried to sell out the same illegally. Hence, the complainant had to file a civil suit against accused No.1 titled as 'Kamla vs. Sandeep' seeking a decree for declaration that the said release deed drafted on 29.4.2010 and got registered on 6.7.2010 was liable to be set aside as the same was procured by the accused No.1 by playing fraud and cheating and hence, it was prayed that the accused be summoned, tried and convicted in accordance with law.”

The learned Additional Chief Judicial Magistrate summoned accused

Sandeep, Raj Kumar and Rameshwar for the commission of offences under Sections 420, 468 and 120-B IPC and complaint against accused No.4 and 5 was dismissed.

In her pre-charge evidence, the complainant examined Manoj Kumar Civil Ahlmad to ACSD, Jind as CW-1, Jitender Singh, Registry Clerk as PW-2 and the complainant herself appeared as PW-3 and closed the evidence.

The accused were charged under Sections 420, 468 read with Section 34 IPC, to which they pleaded not guilty and claimed trial. PW-3 Kamla-complainant was further cross-examined and thereafter learned counsel for the complainant closed the evidence vide making separate recorded statement. The learned Additional Chief Judicial Magistrate, Jind vide judgment dated 1.2.2014 acquitted the accused. Aggrieved from this judgment, the present application for grant of leave to file appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

From the record, I find that the findings given by the learned Additional Chief Judicial Magistrate, Jind are correct as per evidence and law. In no way, the findings can be held as perverse or against the evidence. There is nothing to show that the findings are against the law. A perusal of the judgment passed by the learned Additional Chief Judicial Magistrate shows that the evidence has been appreciated in right perspective. There is only statement of the complainant that a fraud has been committed by

Sandeep-accused and has got the relinquishment deed executed in the case of partition proceedings. A perusal of the averments of the complaint shows that on 29.4.2010 the complainant came to know that accused Sandeep had an evil eye on her property and, at that time, the relinquishment deed was not signed or got executed, but in the complaint it is written that again she went to Sandeep on 6.7.2010 and again Sandeep got executed relinquishment deed/transfer deed from her in the guise of partition proceedings. The complainant herself has examined the Registry Clerk, who stated that at the time of registration of the document, it was read over and explained to the parties. There is no dispute that these thumb impressions were put by someone else and not by complainant-Kamla. There is no other evidence except her own averments to that extent, which is not supported and corroborated by any other evidence. Further more, the case of the accused is that he is adopted son of Puran Singh and the mother of the complainant has already transferred six acres of land in his favour. Further more, he has also placed documents on record including the ration card. A civil suit filed by the complainant to challenge the transfer deed was also dismissed by the District Judge in the appeal.

In view of the findings given by the learned Additional Chief Judicial Magistrate, Jind, I find that a reasonable doubt exists in the prosecution case and the findings are correct as per evidence and law and no illegality has been committed.

In view of the above discussion, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal

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miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to appeal, the same is dismissed.

January 9, 2017.

**(Inderjit Singh)**  
**Judge**

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| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |