

228

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

CRM-A-548-MA-2017 (O&M)

Date of decision: November 07, 2017

Nihal Singh

.....Petitioner

Versus

Namita and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Sumit Sangwan, Advocate
for the appellant.

A.B. CHAUDHARI, J (Oral)

This is appeal against order of acquittal order dated 31.01.2017, passed by the SDJM, Tosham.

Heard learned counsel for the appellant.

Learned counsel for the appellant vehemently contended that the trial Court had made an error while acquitting the petitioner, whereas the matter of fact was that the son of the appellant had married with Namita who had left the house with the articles belonging to the appellant and his son. He further submits that the trial Court recorded the finding which is not based on evidence and that the order of acquittal involves in one of the conviction.

I have perused the impugned judgment and order.

The trial Court has recorded the following reasons in Para 13 of the judgment:-

“13. The accused in the present case have been charge sheeted for the commission of offence under Sections 417, 420, 465, 468, 471 and 120-B IPC. In order to succeed in his case, the complainant was duty

bound to prove the fact that marriage between Namita and Naresh had taken place on 03.09.2010. In order to establish this fact, the complainant has not been able to bring on record any evidence. The only contention of the complainant is to the effect that a report exists on summons Ex.CW-2/B from which it is clear that on 14.10.2007 Namita had already married to Naresh.”

On the concurrent finding of conviction recorded by the trial Court, following is the finding in Para-14 about the offence of forgery etc.:-

“14. As far as allegations under Sections 465, 468 and 471 IPC are concerned, A perusal of Sections 467, 468 & 471 IPC would reveal that “forgery” is an important ingredient which has to be established by the prosecution for securing a conviction in a given case. For “forgery” to be established , “making of a false document” as per Section 464 IPC has to be established. “Making of a false document” as per Section 464 IPC is constituted when a person dishonestly or fraudulently makes a document with the intention of causing it to be believed that such a document has been made by a person whom he knows had not made the said document. This is not the case of the complainant as there are no allegations against the accused that they had tried to make a document with the intention of projecting that the said document was made by some other person and not by them. Further, as per the second provision of Section 464 IPC, a person is said to “make a false document” when without any lawful authority, he dishonestly or fraudulently alters a document after it has been executed either by himself or by some any person.”

On the concurrent offence of conviction since there is no

evidence tendered by the prosecution and appellant that was required to prove the marriage in the first place and the forgery as well.

Looking into the limited scope of the appeal and acquittal in the absence of perversity before the trial Court, I am not inclined to interfere in the impugned order, hence the leave to appeal is dismissed.

Dismissed.

(A.B. CHAUDHARI)
JUDGE

November 07, 2017
anju rani

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