

In the High Court of Punjab & Haryana at Chandigarh.

CRM-A-793-MA-2017

Date of decision: 11.07.2017

Sukhdev Singh

..... Applicant.

VS.

Nirmal Singh and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sandeep K.Sharma, Advocate
for the applicant.

MAHABIR SINGH SINDHU,J.

Complainant-Sukhdev Singh has filed the present application under Section 378 (4) read with Section 372 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking special leave to appeal against the impugned judgment dated 30.01.2017 passed by learned Judicial Magistrate 1st Class, Jalandhar, thereby acquitting the accused-respondents.

Criminal complaint No.132 of 2014 was filed by the complainant with the allegations that accused No.1 is his elder brother, accused No.2 is the wife of late Naranjan Singh (brother of complainant), accused Nos.3 and 4 are the sons of said Naranjan Singh i.e. nephews of complainant. It is further alleged that Ishar Kaur is the mother of complainant as well as of accused No.1, mother-in-law of accused No.2 and grand mother of accused Nos. 3 and 4. Said Ishar Kaur died on 03.09.1991 and before her death she executed a registered Will dated 05.09.1990 bequeathing her estate in favour of complainant to the extent of 2/3rd share and 1/3rd share in favour of Prabhjot Singh and Harpal Singh both sons of

late Surjit Singh, another brother of the complainant. It is further alleged that all the accused in order to defraud the complainant fabricated another Will dated 05.09.1990 by incorporating the same number and date of the earlier original registered Will.

Learned trial Court initially framed charges against the respondents-accused under Sections 465,467,468,471 and 420 IPC and later on added the offence under Section 403 IPC as well.

In nutshell, the case of the complainant/applicant is that all the respondents-accused in connivance with each other fabricated another Will dated 05.09.1990 alleged to have been executed by Ishar Kaur and contents of which are distinct from the original Will. It is also alleged that on the basis of the said Will, the respondents-accused got sanctioned the mutation in their favour and further sold the part of the property vide sale deed dated 01.07.1999 (Ex. C3) to one Gurbachan Singh son of Gian Singh.

It has been admitted by the complainant in his cross-examination while appearing as CW-5 that the mutation which was sanctioned on the basis of alleged forged Will had been contested by him, but remained unsuccessful upto the Revisional Court and copy of the order passed by Additional Commissioner, Jalandhar is produced on record as Ex.R1. Balbir Kaur, while appearing as CW-1 has deposed that Will (Ex. CW1/A) was scribed by deed writer Jagdish Singh Uppal. But neither the said deed writer; nor hand-writing expert was produced to prove the factum of forgery of the Will. Even on earlier occasion, the civil suit was also filed by the complainant, but the same was dismissed as withdrawn on 25.09.2003 and certified copy of the order is Ex. CW5/3.

The submission made on behalf of the applicant/complainant

that learned trial Court has committed a grave error of law and did not consider the evidence on record, is absolutely untenable as there is no evidence on record to prove the forgery of alleged Will.

The learned Trial Court has evaluated the entire material on record but the complainant has miserably failed to prove the charges framed against the respondents-accused. Even otherwise, as discussed above, the complainant has resorted to the remedy available under the law while contesting the mutation before the Revenue Authority but did not succeed.

In view of the above, this Court has no option but to accept the reasoning given by the learned trial Court while acquitting the respondents-accused and there is no ground made out to interfere with the impugned judgment of acquittal dated 30.01.2017 passed by Judicial Magistrate 1st Class, Jalandhar.

In view of the above, there is no merit in the application, which is, accordingly, dismissed and leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

July 11, 2017
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No