

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-794-MA-2015 (O&M)

Date of decision : 16.11.2017

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Agwan Singh

.....Appellant

vs.

State of Punjab and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ripu Daman Singh, Advocate for the appellant

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. K.R. Dhawan, Advocate for respondent No.2.

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H. S. Madaan, J.

Complainant Agwan Singh had filed a complaint under Sections 420, 465, 467, 468, 471, 193 IPC, against accused Gurjant Singh, on the allegations that after death of Balwant Singh, Nambardar of village Machhiwara, applications were invited from eligible persons for appointment of Nambardar, in his place. Complainant submitted an application to Tehsildar in that regard. So did Gurjant Singh accused. Two other persons had also applied for the appointment as Nambardar but later on they withdrew their

applications. Accused Gurjant Singh had represented himself to be having educational qualification of having studied upto 9th class, submitting a certificate in the Court of Tehsildar, Zira, written on the letter pad of Tara Chand Aggarwal, Snattan, with the stamp of principal, Tara Chand Aggarwal, SD High School, Zira, showing signatures of Darshna Kumari, Principal in English. Gurjant Singh had also furnished an affidavit on 12.11.2007 stating that he had studied upto 9th class, however, that certificate was false and a forged document, which accused had submitted before Tehsildar, just to get himself appointed as Nambardar. Principal of said school had issued a certificate under his signatures and stamp on letter pad of school on 17.3.2008 stating that no student in the name of Gurjant Singh s/o Maan Singh r/o Village Noorpur Machhiwara, had studied in 9th class during the period 1996 to 2000. According to the complainant, on the basis of that false and forged certificate, application submitted by the accused, Tehsildar had recommended name of the accused for appointment as Nambardar and SDM, Zira forwarded the same to DC, Ferozepur and accused was granted appointment as Nambardar of village Machhiwara, causing wrongful loss to the complainant. The accused by such conduct had committed criminal offence.

The matter was reported by the complainant to the local police, but the police did not take any action, as such he had filed a complaint before SDJM, Zira.

After recording preliminary evidence, accused was ordered to be summoned to face trial. He put in appearance. The case was fixed for pre-charge evidence, during the course of which

complainant examined Darshna Kumari as CW-1, Manohar Lal Puri as CW-2, HC Mohinder Singh as CW-3, complainant himself appeared as CW-4. Thereafter pre-charge evidence was closed. Thereafter accused was charge sheeted for offences under Sections 420, 465, 468, 471 IPC, to which he pleaded not guilty and claimed trial.

After closure of evidence of complainant, statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him, but he denied all such allegations and pleaded false implication. The accused tendered in evidence documents Exhibits D1 to D7 and thereafter closed the defence evidence.

Learned Magistrate framed the following points for determination:-

1. Whether the accused cheated the revenue department by preparing forged certificate of 9th class in order to take benefit of Nambardar by illegal means and thereby the accused has committed an offence punishable under Section 420 of IPC
2. Whether the accused prepared forged and fabricated document i.e forged certificate of 9th class in order to take benefit of Namberdari and thereby committed an offence under Section 465 IPC.
3. Whether the accused forged certificate of 9th class in order to take benefit of Namberdari forged a certain document, intent that it shall be used for the purpose

of cheating and thereby committed an offence under Section 468 IPC.

4. Whether the accused fraudulently used as genuine certain document i.e. forged certificate of 9th class in order to take benefit of Namberdari which he knew at the time when used it to be forged document and thereby committed an offence under Section 471 IPC.

Thereafter the trial Magistrate vide impugned judgment dated 16.3.2015, acquitted the accused of the charge framed against him, deciding all the four points against the prosecution. The main reasons given for arriving at this conclusion were:-

- 1) The original certificate, which is alleged to have been forged by the accused, is neither available on file of Lambardari case decided by the Assistant Collector Ist Grade, nor placed on record of the complaint case. Therefore, it could not be ascertained that it was a forged certificate.
- 2) The Court of Assistant Collector Ist Grade-cum-Tehsildar, in which the alleged certificate was produced, did not initiate any action against the accused by way of filing any complaint in the Court of competent jurisdiction.
- 3) A written complaint from the Court of Assistant Collector Ist Grade-cum-Tehsildar, was must for initiating any action against the accused and the police cannot take cognizance of such offence.

- 4) Motive for filing of complaint being there, as a result of civil and criminal litigation being between the complainant party and the accused party for last several years.
- 5) The police after thorough enquiry had consigned the application to record and did not take any action against the accused.
- 6) The complaint in question being not maintainable.
- 7) Failure of the complainant to prove that accused had forged the certificate and used the same for illegal purpose or cheated the complainant and the court.

Feeling aggrieved by this judgment, the complainant has approached this Court by way of filing the appeal, moving an application for grant of special leave to appeal, notice of which was given to the respondent, who has put in appearance.

I have heard, learned counsel for the parties besides going through the record.

Learned counsel for the respondent has referred to authority **Budh Ram vs. State of Haryana 2010 (2) RCR (Criminal) 352**, by a co-ordinate Bench of this Court, wherein it was observed that when the original documents in respect whereof forgery was committed, were not brought on record, the conviction was set aside holding that offence of forgery can only be committed in relation to the original documents and not with respect to the copies thereof.

The judgment passed by the trial Magistrate is well reasoned one, based on proper appraisal and appreciation of evidence

and correct interpretation of law. There is no illegality or infirmity therein. No ground is made out to upset the said judgment.

There is no ground to grant leave to appeal. The same is declined and application in question stands dismissed.

(**H.S. Madaan**)
Judge

16.11.2017

chugh	Whether speaking / reasoned	Yes / No
	Whether reportable	Yes / No