

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

**CRL. REVISION No.1194 OF 2016
DATE OF DECISION : 9th MAY, 2017**

Makhan Singh

.... Petitioner

Versus

State of Punjab & others

.... Respondents

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

* * * *

Present : Mr. Nakul Sharma, Advocate for the petitioner.

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A. B. CHAUDHARI, J. (ORAL)

Heard learned counsel for the petitioner.

The petitioner-complainant has put to challenge the judgment and order of acquittal of respondents for the offence under Section 420 and 120-B IPC for which they were charged.

It is the case of the petitioner-complainant that he having a decree in his favour in the sum of ₹1.5 lacs wanted to execute the same but then the accused person forged a Will dated 08.01.2007 in favour of the other family members of the accused in order to avoid the liability under the execution proceedings. According to the complainant as a matter of fact the date of death of Akbar Singh, whose Will was fabricated, was 05.01.2007 and, therefore, the Will dated 08.01.2007 was obviously fabricated when he was not alive. He, therefore, submits that the trial Court has erroneously recorded the order of acquittal.

I have gone through the judgment and order of acquittal. During the reading thereof I find that the pleadings and proof by the prosecution-complainant has not been accepted by the trial Court on the ground that his case that Akbar Singh died on 05.01.2007 was not proved to the hilt, particularly in the light of the answers given by the witnesses in the cross-examination and on the contrary there is every probability of date of death of Akbar Singh as 15.01.2007. I quote para 31 and 32 from the impugned judgment and order:

“31. Chanda Singh, Pachayat Secretary (PW10) admitted that date of death of Akbar Singh is 15.1.2007 not 5.1.2007. He has made a thorough enquiry into the question of date of death of Akbar Singh and came to the conclusion that he died on 15.1.2007 and not on 5.1.2007.

32. Thus, it is clear that Akbar Singh died on 15.1.2007 and not on 5.1.2007. Even otherwise also DW1 Hans Raj retired Inspector has very categorically deposed that on the previous application moved by Makhan Singh enquiry was conducted. During enquiry he found that Akbar Singh died on 15.1.2007.

In my opinion, the trial Court was right in giving the benefit of doubt to the accused persons as the prosecution did not fully and satisfactorily prove its case about the alleged forgery. However, the following observations in the last sentence in para 32 cannot be supported:

“Thus it is clear that case of the prosecution is completely false and baseless”.

The trial Court has not recorded specific reasons as to why the case of the prosecution was false and baseless. In that view of the matter, the above said sentence in para 32 is ordered to be deleted.

As discussed earlier the trial Court has found that the prosecution did not prove its case and that is why it acquitted the accused persons. I agree with the said finding. In the result, the present revision petition is dismissed.

9th MAY, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE