

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

CRR No.395 OF 2016 (O&M)
DATE OF DECISION : 20th FEBRUARY, 2017

Santosh Devi

.... Petitioner

Versus

Laxmi Narain & others

.... Respondents

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

* * * *

Present : Mr. Manvender Rathee, Advocate for the petitioner.

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A. B. CHAUDHARI, J. (ORAL)

Heard learned counsel for the revision petitioner-the complainant.

Learned counsel for the petitioner submitted that though this is true that two courts have gone against the complainant's case about offence in question, but the fact remains that the finding of the acquittal recorded by the courts below is perverse and contrary to the evidence on record. He further submits that the accused were not justified in selling more than what they actually owned. According to the complainant they could sell the land only to the extent of their ownership over the property and therefore could not indulge in cheating the revision petitioner by selling land in excess than actually owned by them.

After hearing learned counsel for the petitioner and upon perusal of the reasons given by the courts below, I find that the view taken by the courts below is a possible view and in appeal against acquittal the parameters relating to such appeals are that merely because another view is possible the order of acquittal cannot be interfered with.

The courts below found that there was absence of requisite *mens rea* in order to conclude any offence under Section 420 IPC. The element of *mens rea* is the heart and soul of the criminal offence which according to the courts below was absent in this case. The petitioner had a remedy to file suit for possession for the loss he suffered in respect of the less area of the property received. At any rate, the dispute appears to be of civil nature and I am, therefore, not inclined to entertain the revision petition against acquittal. The revision petition is, therefore, dismissed.

Liberty is reserved in favour of the petitioner to avail the appropriate remedy before the appropriate court for possession of the property or damages as well.

20th February, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>