

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

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CRR-4866-2016

Date of Decision: 14.11.2017.

Hansraj

....Petitioner.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajesh Lamba, Advocate for the petitioner.

Ramendra Jain, J.(Oral)

Through this revision, the petitioner-complainant has sought setting aside judgment dated 15.10.2016 of the first appellate Court, affirming the judgment of the trial Court dated 16.12.2014, acquitting respondents No.2 to 5 in case F.I.R. No.210 dated 28.04.2008 under Sections 420, 467, 471 and 120-B of the Indian Penal Code, pertaining to Police Station Central, District Faridabad.

In brief, in the aforesaid F.I.R. got registered by the petitioner on the allegations that on 23.01.2008, they took his old father, not mentally sound, namely, Haria to the Tehsil compound and got executed and registered a forged and fictitious sale deed from him qua land measuring 01 Kanal 01 Marla, situated at village Kabulpur Khadar Patti Parvarish, Tehsil and District Faridabad, without any sale consideration, taking advantage of his deteriorated mental condition and old age, respondents No.2 to 5 (hereinafter referred to as 'the private respondents') were charge sheeted and

tried. On conclusion of trial and hearing both sides, learned Magistrate acquitted the private respondents vide judgment dated 16.12.2014 extending benefit of doubt to them.

Being dissatisfied, the petitioner preferred an appeal before the first appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment dated 15.10.2016 affirming the judgment of the trial Court.

Learned counsel for the petitioner submits that complainant-Hansraj as PW1 and his wife, namely, Rekha as PW2 fully supported the prosecution case duly corroborated by PW3 Ram Rattan and PW7 Daya Ram, therefore, both the Courts below have erred in acquitting the private respondents without appreciating the oral as well as documentary evidence led by the prosecution. In the sale deed Ex.PW5/A, it is specifically mentioned by Narottam, Lamberdar that no sale consideration was ever paid or passed in between the vender and the vendee in his presence, which proved that the sale deed was got executed and registered by the private respondents from the father of the complainant taking undue advantage of his ill health and old age.

I have given anxious consideration to the submissions made above by learned counsel for the petitioner.

Undisputedly, sale deed Ex.PW5/A is a registered document, therefore, presumption of truth is attached to the same. The story put forth by the complainant, that his father was forcibly taken away by the private respondents in their car and got executed and registered the aforesaid sale deed Ex.PW5/A without any sale consideration taking undue advantage of his old age and mental illness, does not seem to be probable and sound for

the reasons that the Tehsil premises, where the documents are registered, is always thickly populated. The sale deed in question might have been got drafted and typed at the Court compound or Tehsil compound, where several people always remain present during working hours. Thus, it is impossible for anyone to get executed and registered a document without consent of the executor forcibly in the presence of public at large. Moreso, there is always a certificate/endorsement of the Sub Registrar over the document, who registers the same that he, before signing and registration, has read over the contents of the document to the executor and the beneficiary who have appended their signatures/thumb impressions after admitting the same as correct. The above discussed factors make it impossible for execution and registration of a document forcibly without consent. Moreso, no document was produced by the petitioner qua alleged mental illness of his father. Rather, some photocopies were produced, which both the Courts below did not rely being not admissible in evidence. It is not explained as to why the petitioner did not produce on record the original medical documents qua alleged mental illness of his father.

Narottam, Lambardar, who has made his alleged endorsement on the sale deed that no sale consideration was passed in his presence, was not examined by the petitioner for the reasons best known to him. The private respondents in their defence produced some compromise Ex.DW1/A, allegedly entered in between them and the petitioner, whereby the petitioner agreed to pay Rs.3 lakh to the private respondents and in lieu thereof they had to return the land. Though the petitioner denied to have entered into any such compromise, but did not make any effort to dislodge the same by examining any handwriting and finger print expert.

I have gone through the concurrent findings recorded by both the Courts below and do not find any illegality or perversity therein.

Hence, the present petition, being without any merit, fails and is dismissed.

(RAMENDRA JAIN)
JUDGE

14.11.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No