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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

CRR-1264 of 2017 (O&M)
DATE OF DECISION: 31.07.2017.

Lakha Singh and others Petitioners
Versus
State of Haryana Respondent.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. R.S. Mamli, Advocate
for the petitioners.

Shekher Dhawan, J.

Present revision petition is directed against the judgment of conviction dated 18.03.2013 and order of sentence dated 21.03.2013 passed by learned Sub Divisional Judicial Magistrate, Safidon, whereby the petitioners were convicted and sentenced as under:-

Under Section	Sentence	In default
Section 419 read with Section 120-B of Indian Penal Code (for short, "IPC")	to undergo Rigorous Imprisonment for a period of one year each.	To further undergo Simple Imprisonment for one month each.
Section 420 read with Section 120-B I.P.C.	to undergo Rigorous Imprisonment for a period of two years and to pay fine of ₹500/- each.	
Section 423 read with Section 120-B I.P.C.	to undergo Rigorous Imprisonment for a period of one year each.	
Section 467 read with Section 120-B I.P.C.	to undergo Rigorous Imprisonment for a period of two years and to pay fine of ₹500/- each.	
Section 468 read with Section 120-B I.P.C.	to undergo Rigorous Imprisonment for a period of two years each.	

Section 471 read with Section 120-B I.P.C.	to undergo Rigorous Imprisonment for a period of two years each.	
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All the sentences were ordered to run concurrently.

2. Appeal filed by the petitioners was dismissed by learned Additional Sessions Judge, Jind vide judgment dated 22.03.2017.

3. Relevant facts for the purpose of decision of this petition; that a complaint was filed under Section 156(3) Cr.P.C. with the allegations that Risala son of Dhani, grandfather of the complainants, had purchased land measuring 19 kanal 6 marla from Provincial Government in the year 1975 and mutation No.719 dated 25.04.1976 was entered in the revenue records. Said Risala remained in possession of the said land and died in the first week of May, 1986. In the year 2008, complainants approached Patwari of the area for getting copy of revenue record and at that time, they came to know that on the basis of judgment and decree of the Civil Court dated 02.06.1986, mutation had been changed and the complainants came to know that fraud had been played upon them by obtaining judgment and decree on incorrect facts and fraudulantly.

4. Learned counsel for the petitioners contended that, in fact, the petitioners had produced agreement Ex.D1 whereby Risala had entered into an agreement of sale and had taken the entire money and even General Power of Attorney had been given in favour of the father of the petitioners. As such, there was no question of cheating any body. The petitioners also filed Regular Second Appeal, which is pending before this Court. Both the Courts below have not considered that there was no cheating on the part of

the petitioners because the entire amount had already been paid to Risala and possession of the land was delivered to the petitioners and the petitioners were in continuous possession of the land in view of the agreement Ex.D1, which was duly thumb marked by Risala and the same was duly proved, no fraud was committed. More so, an amount of Rs.25,500/- had already been received as is evident from the document Ex.D2, but both the Courts below have not considered these facts.

5. The arguments raised by learned counsel for the petitioners have been duly considered and even both these points were raised before both the Courts below. Both the Courts below have already appreciated the entire evidence including Ex.D1 and Ex.D2 and have recorded findings on the basis of positive evidence available on the file that, in fact, Risala died in the first week of May, 1986 and the fact regarding his death was duly entered in the records maintained in the office of Additional Registrar, Birth and Deaths on 16.05.1986. Said Risala had two sons, namely, Inder Singh and Zile Singh. Said Zile Singh was pre-deceased and after the death of Risala, the land fell to the shares of Inder Singh and legal heirs of Zile Singh. After the death of Inder Singh, his half share had gone to his legal heirs and on that basis, the complainants of this case are joint owners in possession of the land in equal shares. As per the complainants, they had approached Patwari of the area for obtaining copies of the revenue records in the first week of February, 2008 and at that time, they came to know that some bogus entry on the basis of judgment and decree dated 02.06.1996 was made.

6. Both the Courts below had placed reliance upon the testimony of PW-8, Ravinder Kumar, Statistical Clerk, office of Registrar, Births and Deaths, who made the statement on the basis of record that the death of Risala was duly recorded in the said office. Apart from that, learned trial Judge placed reliance upon the testimony of PW-1, Balram Saini, Advocate' PW-2, Sham Singh; PW-3, Rakesh Ahlmad in the Court of ACJ (SD), Safido; PW-4, Major Singh (complainant) and PW-5, Fateh Singh.

7. On the basis of positive evidence, both the Courts below have already recorded the finding that Risala had died in May, 1986 and relevant entry was duly made in the records maintained by the office of Registrar Births and Deaths and as such there was no question of legally valid judgment and decree having been passed on 2.6.1986 or thereby conferring any title of land in favour of the present petitioners.

8. Resultantly, the present petition is absolutely without any merit and the same stands dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

31.07.2017.

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Whether speaking/reasoned:	Yes
Whether reportable :	No