

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

**CRM-A-1390-MA-2016 (O&M)
DATE OF DECISION:-29.11.2018**

KRISHAN KUMAR

...APPLICANT...

V.

SURENDER AND ANR.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Harish Mehla, Advocate for the applicant.

Mr. Randeep Singh, Advocate for the respondents.

RAMENDRA JAIN, J. (ORAL)

CRM-23335-2016

For the reasons mentioned in the application, delay of 60 days in filing the present appeal is condoned.

CRM stands disposed of.

Main case

Through this application under Section 378(4) Cr.P.C., the complainant has prayed for grant of leave to file accompanying appeal against the judgment dated 18.02.2016, whereby the respondents were discharged.

Briefly, applicant-complainant filed a private complaint under Sections 420, 467, 468, 471 and 120-B IPC, before the Judicial Magistrate Ist Class, Karnal, against the respondents on the allegations that they by forging the documents in the name of deceased persons namely Nanu, died on 21.08.2000, Jai Singh, died on 12.08.2001, Hari Ram, died on 08.05.2005 and Mahinder, died on 05.12.2007, had misappropriated government funds and grants, meant for construction

of toilets in the houses of inhabitants of the village by withdrawing the same on 24.01.2008. After holding trial, respondents were discharged vide order dated 18.02.2016.

Being unsatisfied with the aforesaid order, the applicant-complainant has come up before this Court.

Learned counsel for the applicant contends that the trial court has failed to appreciate that the aforementioned persons had died long back prior to 24.01.2008, on which date, grant for construction of toilets was shown to have been disbursed to them. Therefore, any sort of disbursement to a deceased person amounts to misappropriation. The trial court had also ignored the statements of eye-witnesses examined by the applicant including himself in support of his said assertion.

On the other hand, learned counsel for the respondent refuting the above submissions of learned counsel for the applicant, submits that there is no illegality in the impugned order.

After having given anxious consideration to the submissions made by learned counsel for the parties, this Court finds the instant application completely devoid of any merit for the reasons to follow:-

1. The allegations of the applicant against the respondents are that they misappropriated the government funds/grants meant for construction of toilets in the village for the inhabitants, falling below poverty line by disbursement of the same in the name of dead persons on the basis of forged/fictitious record. In support of his

contention/assertion, applicant examined himself as CW-6 besides five official witnesses, who, by admitting certain facts in their cross-examination in favour of the respondents, completely smashed the allegations of the applicant, inasmuch as, Naresh Kumar CW-1, Assistant Project Officer, ADC, Karnal, in his cross-examination categorically admitted that in case of death of a applicant, grant can be released to his legal heirs. List of beneficiaries Ex.CW1/A was prepared, in whose favour grant was required to be disbursed, after conducting survey. The said list of beneficiaries EX.CW1/A was recommended by BDPO, Nilokheri and only thereafter, the grant was disbursed on verification. No complaint was ever received from any corner about misappropriation of government grant by the respondents in their office.

2. Similarly, CW4 Ashok Kumar Sharma, Sub-Inspector, Food & Supply, Nilokheri also admitted in his cross-examination that list of below poverty line category was prepared by the office of ADC. The persons shown in such list may increase or decrease, after conducting survey, in case, the income of a person is increased or decreased. A person falling under the category of below poverty line on increase of his income may fall in the category of above poverty line and a person above poverty line category comes under the category of below poverty line, in the eventuality of decreasing of his income. Above Poverty Line card of Zila was prepared in the year 2005 and grant was issued on 24.01.2008. There was no record with them

that on the date of release of grant, said Zila was still falling under the category of above poverty line. Parwinder Singh CW5, in his cross-examination had categorically admitted that as per list Ex.CW5/A, the grant was released to the legal heirs of aforementioned persons and they have also constructed toilets in their homes and using the same.

From the above evidence, it is evident that applicant had miserably failed to establish that any grant or government fund was ever misappropriated by the respondents. The applicant did not make any effort to rebut the admissions of the aforesaid government officers in their cross-examination. He even did not dare to examine any of the legal heirs of the deceased persons of whom the alleged grant or government fund was allegedly misappropriated by the respondents. Had it been so, it was very easy for the applicant to produce the legal heirs of any of the deceased persons in support of his assertion that they were never disbursed any grant and same was misappropriated by the respondents. However, no such evidence was brought on record. Rather, legal heirs of the deceased had submitted their affidavits marked D-1 to D-4 before the Additional Deputy Commissioner, during inquiry negating the allegations of applicant.

That apart, applicant had himself admitted in his cross-examination that the persons with regard to whom grant was misappropriated, were still living in the village Majra. He even identified them in the photographs (Ex.D6 to D-9) as Sumita, Krishan, Giano Devi, Parmeshwari respectively. He never visited the houses of

the aforesaid villagers.

Thus, he was not able to prove whether any toilet was not constructed in their houses. After conducting inquiry, ADC also found the allegations of the applicant false. The grant was disbursed by the BDPO.

The applicant has miserably failed to lead any cogent and convincing evidence in support of his assertion.

I have gone through the impugned order dated 18.02.2016 and find no illegality in the same.

Dismissed.

29.11.2018
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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:	Yes/No
whether reportable:	Yes/No