

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM-A-1518-MA of 2016 (O&M)

Date of Decision:- 07.03.2018

Bikram Singh

... Appellant

Versus

Dharamvir Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Maharaj Singh, Advocate for the appellant.

M.M.S. BEDI, J.

Heard. In the interest of justice, criminal miscellaneous No.26034 of 2016 is allowed. Delay in filing the appeal is condoned.

Aggrieved by the order of acquittal passed against the respondents in a private complaint filed by him, appellant has filed the appeal along with an application for grant of special leave to appeal.

A criminal complaint had been filed by the appellant on the ground that the respondents having aggrieved with each other, deliberately did not execute the sale deed. The allegation is that in order to defeat the rights of the complainant accruing from an agreement of sale dated 30.3.2005, the respondents in connivance with each other, forged a Will dated 1.1.1993 and fraudulently made an attempt to demolish the case of the complainant/appellant for specific performance.

The Judicial Magistrate 1st Class, Dera Bassi vide order dated 30.10.2013 has dismissed the complaint *inter alia* on the ground that the civil rights of the parties pursuant to the agreement of sale and alleged Will were yet to be decided.

Counsel for the appellant has submitted that his suit for specific performance had been decreed by the Civil Court on 18.7.2014 as such, his complaint was not premature. He has also submitted that the lower Court has made an observation regarding the forgery of the Will.

We have taken into consideration all the circumstances and are of the opinion that the private complaint had been filed by the appellant alleging that the offence has been committed in respect to a document i.e. Will dated 1.1.1993 which was produced in the Court as evidence in proceeding before the Civil Court as well as the revenue authorities. We have carefully considered the contentions of counsel for the appellant in context to the provisions of Section 195 (1)(b)(2)(ii) Cr.P.C. and the relevant provisions of Section 340 and 344 of Cr.P.C.

The allegations in the complaint clearly fall under the above said provisions. The suit of appellant having been decreed for specific performance will also not alter the legal situation. The remedy under the above said provisions of the Criminal Procedure Code would still be available. No Court can take cognizance of an offence described in Section 463 Cr.P.C. and punishable under Section 471, 475 or Section 476 of IPC relating to offences of document produced in proceedings in the Court except on the complaint by the Court or by such officer of the Court/Authority. So far as the observations in favour of the appellant in civil suit decided on 18.7.2014 is concerned, in that context we are of the

under Section 344 Cr.P.C.

In view of the said circumstances, we do not find any infirmity in the order of acquittal passed by the lower Court, in the complaint filed by the appellant. The leave to appeal is declined for the above said reasons without prejudice to the rights of the appellant to avail any other legal remedy subject to the final adjudication of the civil/revenue litigation.

Dismissed.

(M.M.S. BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

March 07, 2018
mohan

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No