IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc.A-1827-MA of 2016
Date of Decision : August 08, 2018

Neeraj ....Applicant

Versus

D.N. Aggarwal and another ....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. P.S. Jammu, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 27.7.2015 passed by the learned Judicial Magistrate 1st Class, Sirsa whereby learned trial Court acquitted whereby accused D.N. Aggarwal, respondent No.1-herein, of the charges under Sections 406, 467 and 471 IPC.

According to the complainant, he was an Advocate practicing on the income tax side. Respondent No.1, who was acquainted with his father, had obtained Kisan Vikas Patra, National Saving Certificate recurring deposit, fixed deposit and other policies in the name of his father. On some false pretext being confidante of his father, respondent No.1 obtained photocopies of some of the identification proofs like PAN card, ration card, voter card and license issued by the Bar council of the complainant. Respondent No.1 was an LIC agent and had good reputation in the LIC as well as the postal department. Taking advantage of this, he opened joint account No.2846862 in the name of the complainant and one Deepak, who was stranger to the complainant and fraudulently obtained cheques in the name of the complainant from the post-office, LIC and SBI. The amount withdrawn through the said cheques used to to be got deposited by respondent No.1 in the joint account opened by him and in this way, he had fraudulently obtained Rs.4,60,680/- in connivance with the Post Master, LIC Manger and others. However, when the complainant alongwith his wife went to the office of LIC for collecting cheque of money back policy, they came to know that cheque bearing No.138990 of the amount of Rs.20,000/- had already been collected by respondent No.1, who had deposited the same in account No.2846862 opened in the post office. When the complainant inquired about the matter, he came to know that the account was opened in his name and in the name of Deepak but was later on closed by respondent No.1. When he enquired about the account from the Manager of the Post Office, the Manager refused to disclose any information. Consequently, the complainant moved an application under RTI but incomplete information and vague replies were given by the postal department. When the complainant asked respondent No.1, the latter threatened the former with dire consequences. Hence the complaint.

Having heard learned counsel for the applicant and on going through the impugned judgment as well as the record, this Court finds that the complainant deposed before the trial Court that he did not know whether respondent No.1 obtained the matured amount from the LIC or from the Post Office and misappropriated the same. He also denied that the amount of Rs.4,60,680/- was handed over by respondent No.1 to his father. On the other hand, it was established that respondent No.1 was on visiting terms and having good relations with the complainants family. It was the complainant's father, who had given the copies of KVP and other documents of the complainant to respondent No.1. Further, the amount so withdrawn by respondent No.1 was not misappropriated or put to his own use. Rather, the same was handed over to the complainant's father, who further gave it to the complainant's mother. It is also apparent that the complainant could not bring on record any document to show that it was respondent No.1, who had opened any such account. PW3 Anil Kumar, Handwriting and Fingerprint Expert put on record his report Ex.PW3/1. However, while preparing the said report, he had taken questioned signatures from documents Ex.PW3/7 to Ex.PW3/11, which were the photocopies of the original forms. The report ought to have been prepared from the original documents which was not the case. Respondent No.1 is alleged to have identified some other person to be the complainant. However, the person who impersonated as the complainant has not been named by the complainant.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN) **(FATEH DEEP SINGH)**
August 08, 2018 **JUDGE** **JUDGE**
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Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO