

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

CRM-A-1105-MA-2014

Date of decision: 21st May, 2018

Vishnu Kumar Goel

... Applicant

Versus

Atul Kumar Goel & another

... Respondents

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

Present: Mr. Jagtar Kureel, Advocate for the applicant.
Mr. H.P.S. Bhinder, Advocate for respondent No.1.
Mr. Robin Dutt, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

A complaint under Sections 467, 471, 474 IPC read with Section 120-B IPC was preferred by complainant, present applicant, Vishnu Kumar Goel against the present respondents, namely, Atul Kumar Goel, Smt.Shail Bala and Dr.Vijay Kumar Gupta before the Court of learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri. The precise allegations were to the effect that the complainant and respondent No.1 are real brothers, sons of respondent No.2, having born to her from her wedlock with Rajeshwar Parsad Goel (now deceased). It is alleged by the complainant that Rajeshwar Parsad Goel died on 11/12.04.2001 at Jagadhri after prolonged illness on account of cancer and during this

period, it is alleged by the complainant, that all the accused entered into a criminal conspiracy and with a motive to usurp the movable as well as immovable properties left by Rajeshwar Parsad Goel, forged and fabricated a Will dated 11.01.2001, whereby bequeath by Rajeshwar Parsad Goel was made in favour of respondents No.1 and 2. The complainant claims that by this deception, he has been denied inheritance to the estate of his late father and it was on account of brain cancer since the year 1999, the deceased was not keeping good health and was under constant medical care at various hospitals. It is alleged that accused No.3 besides one Sanjeev Kumar are the attesting witnesses to this Will and who have also manipulated by changing the year from 2002 to 2001 and therefore claims that the Will was forged and fabricated.

Upon leading pre-charge evidence by way of PW-1 Sumit Kumar, Record Keeper, PW-2 Sukhbir Singh Chauhan, Chief Manager and PW-3 Vishnu Kumar Goel, complainant himself, and proving documents, i.e. copy of the Will as Ex.P1, copy of case title as Ex.P2, copy of judgment dated 19.10.2009 as Ex.PR, copy of decree-sheet as Ex.PS, sale deed as Ex.PT and copy of sale deed as Mark-P, the complainant closed the evidence.

It was through the impugned order dated 27.03.2014, after summoning of the accused and necessary trial, in which the

defence proved copy of judgment dated 31.10.2002 as Ex.D1 and copy of its decree sheet as Ex.D2, the learned Court below dismissed the complaint and acquitted the accused of the charges framed against them.

Heard Mr. Jagtar Kureel, Advocate representing the applicant; Mr.H.P.S. Bhinder, Advocate on behalf of respondent No.1; Mr.Robin Dutt, Advocate for respondent No.2 and perused records of the case.

It is by no means differed by the applicant's counsel that the Will dated 11.01.2007 is in the handwriting of deceased Rajeshwar Parsad Goel and which has been attested by Dr. Vijay Kumar Gupta and Sanjeev Kumar. Since the allegations harbour around forgery, fabrication and falsification of the Will in question, thus, onus lay heavily upon the complainant to have established the same by leading cogent and reliable evidence in that direction. Furthermore, it is the own case of the two sides, in the light of submissions made before this Court, that the Court of learned Additional District Judge, Jagadhri vide judgment dated 31.10.2012 has upheld the legality and validity of the Will. The complainant did not lead any evidence to show how this Will, which has been upheld by the Civil Court and is so till date, is a result of forgery or manipulation. The complainant has not examined even an expert to

bring forth the fact that the said Will did not bear the signatures of the executant or it was not in his handwriting. Since the deceased executant was a literate person and must have other documents for the purposes of comparison, but to the very specific query of the Court as to what sort of evidence has been led to create a doubt over the Will being not in the handwriting of deceased Rajeshwar Parsad Goel or to prove that he was not in a sound disposing state of mind at the time of execution of the Will, learned counsel for the applicant could not substantiate it by any medical means. There is no worthwhile evidence on the record to bring the case of the complainant within the realm of his accusation. The learned Court below, in the impugned judgment, has given well reasoned findings. The application for grant of leave to appeal is therefore, meritless and deserves to be dismissed and is hereby dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(FATEH DEEP SINGH)
JUDGE

May 21, 2018

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No