

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-389-MA of 2016

Decided On : 20.03.2018

Vikas Jain

....

Applicant

versus

Sham Sunder Jain and others

....

Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Susheel Gautam, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of special leave to appeal against the judgment dated 02.12.2015 passed by the Judicial Magistrate First Class, Ganaur (for short – the trial court), through which the respondents have been acquitted of the charges framed against them under Sections 409, 419, 420, 468, 471 & 120-B of the Indian Penal Code, 1860 (for short – IPC).

The applicant filed a complaint before the trial court seeking therein prosecution of the respondents under Sections 409, 419, 420, 467, 468, 471 & 120-B IPC on the allegations that respondent No.1-Sham Sunder Jain while holding office of Municipal Councilor, Ganaur, had

misused his authority by receiving old age pension of his mother Smt. Kela Devi and one Smt. Krishna Devi, who was wife of Tara Chand and the resident of the same locality, even though the afore-referred ladies had died much earlier. Respondents No.2 and 3-Jitender and Rajinder and one Sanjeev, who were the brothers of respondent No.1-Sham Sunder Jain, were further alleged to be beneficiaries of a Scheme which was made for persons who were 'below poverty line'. Respondent No.1-Sham Sunder Jain was alleged to have facilitated such benefits to respondents No.2 and 3-Jitender and Rajinder and the aforesaid Sanjeev by making false verifications with regard to their incomes.

On the basis of pre-charge evidence, respondents Sham Sunder Jain, Jitender and Rajinder were charged under Sections 409, 419, 420, 468, 471, 120-B IPC. However, Sanjeev was discharged. Since all the accused, who were charged pleaded not guilty, they were put on trial.

The trial court after sifting the evidence which had come on record, acquitted the respondents of the charges levelled against them. It is such acquittal which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made before the trial court, submitted that the trial court erred in law and in fact by acquitting the respondents of the charges levelled against them as there was overwhelming evidence on record to prove their guilt.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant acceptance.

Learned counsel for the applicant concedes that for the allegations made in the present complaint qua respondent No.1-Sham Sunder Jain, he had already been convicted and held guilty in a case arising out of FIR No.104 of 2010 registered in Police Station, Ganaur. That being so, the trial court rightly held that in view of respondent No.1-Sham Sunder Jain's conviction in the FIR case, he could not again be punished in the present complaint case.

So far as the respondents No.2 and 3-Jitender and Rajinder are concerned, no evidence was led by the applicant/complainant to show whether their applications were actually processed or whether the alleged benefits were ever actually received by them. The complainant has also failed to prove the financial status of respondents No.2 and 3-Jitender and Rajinder disentitling them to the benefits under the Scheme.

In view of the above, the present application is found devoid of any merit and, therefore, dismissed.

Leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

March 20, 2018
Jyoti I

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>