

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

CRM-A-1424-MA-2014
DATE OF DECISION : 20th NOVEMBER, 2018

Malkiat Singh & others

.... Appellant

Versus

Sher Singh & others

.... Respondents

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI
HON'BLE MR. JUSTICE H. S. MADAAN**

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Present : Mr. S. K. Yadav, Advocate for the appellant.

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A. B. CHAUDHARI, J. (Oral)

Heard learned counsel for the appellant.

The appeal is directed against order dated 24.04.2014 passed by learned S.D.J.M. Mahendergarh acquitting the respondents for offence under Section 420/120-B IPC.

Learned counsel for the appellant submits that though there is conviction recorded by the trial Court, namely respondent No.1-Sher Singh under Sections 467/120-B, 468 and 471 IPC and respondent No.2-Banwari Lal under Sections 467/120B IPC, however, the trial Court erred in acquitting the respondents for offence under Section 420 IPC and awarding less sentence in other offences.

With the assistance of counsel for the appellant, we have gone through para 12 of the judgment of the trial Court. We quote relevant part of Para 12 as under:

“xxx.... xxx.... xxx.... In the testimony of CW1

nothing emerged due to establish that he sustained

any wrongful loss on account of aforesaid writing. No evidence has been adduced by complainant that accused gained wrongfully by virtue of writing Ex. PW2/B in respect of alleged addition. More so no evidence produced to establish that land which has been added in aforesaid mutual family partition is owned by complainant. The complainant could be said to lose wrongfully had he been kept out of property. The disputed writing (portion from canal to well will be used as passage for both) clearly goes to show that passage is stated in the aforesaid writing, in absence of complainant to prove his ownership on the portion stated in aforesaid writing it cannot be said that wrongful loss caused to the complainant and wrongful gain obtained by accused. No doubt complainant being CW2 in pre charge evidence in his cross examination deposed that loss caused to him but he failed to prove how loss occasioned him on account of the aforesaid writing. The suit for injunction filed by accused on the basis of aforesaid writing has already been dismissed by court of Sh. Chander Hass the then Id. Civil Judge (JD) Mohindergarh. Besides it on the basis of evidence adduced by complainant it cannot be held that any inducement was made by accused and

believing upon such inducement accused parted with property thereby resulting into wrongful loss to him and wrongful gain to the accused, therefore, in these circumstances this Court is of the opinion that essential ingredients for holding guilty accused under section 420, 210-B (sic) IPC are not established beyond shadow of reasonable doubt by complainant.”

We agree with the reasons recorded by the trial Court for not convicting the respondents under Section 420 IPC.

In that view of the matter, the appeal is summarily rejected.

(A. B. CHAUDHARI)
JUDGE

20th NOVEMBER, 2018
‘raj’

(H. S. MADAN)
JUDGE

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