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

**CRM-A-2308-MA of 2017 (O&M)
Date of decision: January 30, 2018**

Tilak Raj

.....Applicant

Versus

Gurbachan Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr. Vimal Kumar Gupta, Advocate for the applicant.

A.B. CHAUDHARI, J (Oral)

CRM No.34041 of 2017

Heard.

Application is allowed for the reasons stated therein. Delay of 85 days in filing the application seeking leave to appeal, is condoned.

CRM-A-2308-MA of 2017

This is an application for grant of leave to appeal against the judgment dated 17.03.2017, in case CIS No.1088/2013, passed by the learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri, filed by the original complainant-the present applicant.

In support of the present application for grant of leave to appeal, learned counsel for the applicant-original complainant vehemently argued that the trial Court erred in acquitting the respondents when there was an ample evidence on record to convict

the respondents. According to him, there was evidence on record to show that, though, the sale-deed was registered in favour of the complainant, on 08.01.2001 and the transaction was completed, still the accused persons colluded and as a result of conspiracy, forged the agreement to sell of the same property by antedating the same to 10.09.1999, though, it is true that ultimately, the complainant succeeded in the litigation regarding challenge to the said agreement but fact remains that the respondents had indulged in the forgery, fraud and the complainant was required to undertake the litigation for getting the fruits of his sale-deed and was thus, put to avoidable litigation. Apart from that , there was clear-cut *mens rea*/criminal intention regarding forgery and fraud and therefore, the respondents are liable to be convicted.

We have heard learned counsel for the applicant-complainant for quite sometime. We have also gone through the impugned judgment of acquittal made by the learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri. We have seen the reasons recorded by the learned trial Judge. At the outset, we find that the parties to the criminal case had a civil litigation among themselves and as fairly stated by the learned counsel for the applicant, the ultimately, the applicant succeeded in the litigation and got the fruits of the sale-deed which was executed in his favour. The parameters laid down by the Apex Court in the matter of appeal against acquittal will have to be kept in mind as this Court would be unable to substitute the view taken by the trial Court while recording the order of acquittal. At any rate,

we find that the applicant failed to produce the requisite evidence in support of the alleged offences. Instead of repeating the reasons, it would be appropriate for us to quote the relevant portion from the impugned judgment of the trial Court:-

“..... In the present case, complainant has failed to give any evidence regarding the fact that accused persons in conspiracy with each other had prepared a forged document i.e. agreement to sell dated 10.09.1999 (Ex.C6) and accused persons had prepared ante-dated document i.e. agreement to sell dated 10.09.1999. On perusal of agreement to sell dated 10.09.1999 (Ex.C6), it is clear that there is entry dated 10.09.1999 on the back side of the stamp paper regarding its purchase. Complainant could summon the relevant register of the stamp vendor to prove the fact that the said stamp paper was not sold out on 10.09.1999 and the same was sold out thereafter, but the complainant has failed to do the same due to the reasons best known to him. No witness has been examined by the complainant who stated before the Court that he has seen the accused persons while preparing the documents after dated 10.09.1999 or that accused persons had prepared the document Ex.C6 after 10.09.1999 or that accused persons had prepared the document Ex.C6 after 10.09.1999 as being ante dated document in his presence. In the absence of any evidence regarding the fact that accused persons had prepared the ante dated document i.e. Ex.C6, they cannot be convicted only on the basis of findings of the Civil Court because civil case has to decide on the basis of evidence given in that case. In the Civil case, there is no requirement to prove case against the other party beyond reasonable doubt, but on the other

hand in a criminal case, complainant party has to prove their case against the accused persons beyond a reasonable doubt.”

We agree with the above reasons recorded by the learned trial Court and find that the judgment of acquittal cannot be faltered. In the result, we do not find any merit in the present case.

Hence, the application seeking leave to appeal against judgment of acquittal is dismissed.

(A.B. CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

January 30, 2018

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No