

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

CRM-A-350-MA of 2014(O&M)

Date of decision : 16.05.2018

Nasib Kaur

..... Applicant-Appellant

versus

Baljinder Kaur

..... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Tejinder Pal Singh, Advocate
for the applicant-appellant.

SURINDER GUPTA, J. (Oral)

CRM-8006-2014

Heard. There is delay of 63 days in filing the appeal.

In view of facts mentioned in the application which is supported by an affidavit, the same is allowed and delay of 63 days in filing the appeal is, hereby, condoned.

CRM-A-350-MA of 2014

Heard. This is an appeal filed by Nasib Kaur, since deceased, through Nachhattar Kaur against the judgment of acquittal passed by Judicial Magistrate 1st Class, Malerkotla.

A complaint was filed by Nasib Kaur alleging therein that her son Ajit Singh (an ex-Army man) was married with Nachhattar Kaur. He died on 04.09.2003 and in his original Pension Payment Order (PPO) and other documents lying in Punjab National Bank, Ahmedgarh, Nachhattar Kaur was referred as his nominee for the purpose of ordinary family pension

being his legally wedded wife. When the complainant submitted her claim to Army Head Quarter for releasing the pension along with the succession certificate, she came to know that accused has submitted her joint photograph with Ajit Singh on the pension form for disbursement of the family pension and other benefits claiming herself to be wife of Ajit Singh. She had also withdrawn FDR of Ajit Singh which was lying deposited in Punjab National Bank, Ahmedgarh.

The trial Court, after recording preliminary evidence, summoned the accused for the offence punishable under Sections 419 and 420 IPC and after hearing the parties on charge and on the basis of preliminary evidence she was chargesheeted for offence punishable under Sections 419 and 420 IPC. On perusal of the evidence led by the complainant-appellant it was observed that she has miserably failed to prove the charges framed against the respondent for cheating the complainant by representing herself as widow of Ajit Singh, the complaint was dismissed.

Learned counsel for the applicant-appellant argued that in the original PPO submitted before the Punjab National Bank, Ahmedgarh, Nachhattar Kaur was shown as wife of deceased Ajit Singh, however, on the representation of the respondent who filed her photograph with Ajit Singh, the PPO was modified and released in her favour by the Army authorities. The question before the trial Court was about the status of respondent. The onus was on the complainant to prove that Nachhattar Kaur was married with Ajit Singh. The learned trial Court discussed the evidence produced before it in detail and answered all the points raised by the complainant in para 14 of the judgment which is reproduced as under:-

“The foremost argument raised by learned counsel for the complainant is that the accused has illegally pretended herself as the wife of the Ajit Singh and claimed the disbursement of the pension benefits from the PNB Ahmedgarh and also withdrew FDRs from the Bank by claiming herself as the wife of Ajit Singh, but the complainant failed to bring on record any document or oral evidence whereof it could be proved that the accused withdrew the FDRs from the Bank and claimed the disbursement of the pension benefits of Ajit Singh. Rather, the counsel for the accused contended that accused is the real wife of Ajit Singh but by mistake the name of Nachattar Kaur was mentioned in the alleged PPO form Ex.-C2. He further contended that the document Ex.-C3 which bears the photograph of the accused with Ajit Singh is the part of one document i.e. PPO form which is cross signed by one higher official of Army Officer after admitting the accused as genuine wife of Ajit Singh. No doubt, the complainant has brought on record the PPO form Ex.C2 wherein the name of the complainant is mentioned as a nominee of Ajit Singh but except the said document and Succession Certificate Ex-P1 whose operation is still stayed, the complainant could not produce any other documentary or oral evidence where from it could be ascertained that she is the one who is actually real widow of Ajit Singh and the accused is playing fraud with PNB Ahmedgarh and other forums to attain the pension and other benefits of Ajit Singh by pretending herself as wife of Ajit Singh. Most importantly, the complainant Nachhattar Kaur does not answer the basic enquiries about Ajit Singh in her cross examination which raises a serious doubt on the story of the complainant. In her cross examination she stated that she does not know when did Ajit Singh got retired and from what disease he was suffering which caused his death. Further she failed to mention that in which hospital his treatment was going on. She further stated that Ajit Singh died in the year 2007 and she did

not attend his cremation ceremony. But, as per records the death of Ajit Singh occurred in the year 2003 which further raises serious doubts on the truthfulness of the present complaint. She further stated in her cross examination that she does not know that Ajit Singh was having Account in which Bank of Ahmedgarh and she further stated that she cannot produce any photograph of her marriage with Ajit Singh and she further stated that from the very first date with her marriage with Ajit Singh she used to live at Sangrur and Ajit Singh used to live at Samrala. Vitally, she stated that she does not know that whether the accused withdrew any FDR from the Bank or not. So such kinds of statements further raises doubts on the veracity of the present complaint. On the other hand, DW2 Nishan Singh, the ex panch of village Munsiwla deposed that he is residing in the village since 1950 and he stayed as a panch of the village from 1983 to 1992, he identified the complainant Nachhattar Kaur as the wife of one Binder Singh who is the resident of the village Munsiwala and further stated that she is living in the village from the last 25-30 years with said Binder Singh as his wife and she is having three children which further puts a serious dent in the story of the complainant. The counsel for the accused brought on record certain records which further raises doubts on the truthfulness of the present complaint, for instance, the copy of the ration card Ex-D1 wherein accused Baljinder Kaur is shown as the wife of Ajit Singh and document Ex-D2 duly issued by the PNB Ahmedgarh wherein the accused has been shown as the nominee of Ajit Singh.”

The pension of Ajit Singh was released by the Army Authorities after completion of all the formalities and as per its record. The complainant could not produce any evidence to show that Nachhattar Kaur was ever married with Ajit Singh. She (Nachhattar Kaur) was not even aware about the illness of Ajit Singh and his treatment. She had not attended his

cremation and had no photograph of her marriage with him. She had stated that Ajit Singh used to live at Samrala while from the first day after her marriage, she lived at Sangrur. For want of any evidence that respondent had cheated the complainant, the trial Court has committed no error of law or fact while appreciating the evidence on record and dismissing the complaint.

No reason is made out to allow the application under Section 387(4) Cr.PC. and to grant leave to appeal, which has no merit and the same is dismissed.

(SURINDER GUPTA)
JUDGE

16.05.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No