

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

CRR No. 3694 of 2014

DATE OF DECISION :- March 27, 2018

Smt. Manmohan Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Sunil Chadha, Senior Advocate
with Mr. Maneet Kumar Arya, Advocate for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Accused Harpal Singh, Onkar Singh, Balkar Singh, Avtar Singh, Satwant Kaur wife of Sh. Sohan Singh all residents of Chatiwind along with Mukhtar Singh, Numberdar faced trial by Chief Judicial Magistrate, Amritsar who vide judgment dated 18.7.2013 convicted the accused and sentenced them as follows :-

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|----|--------------|--------------|---|
| 1) | Harpal Singh | U/s 120B IPC | To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month. |
| | | U/s 467 IPC | To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month. |
| | | U/s 468 IPC | To undergo RI for 2 years and to pay Rs.2000/- as fine.
In default of payment of fine, |

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|----|--------------|--------------|--|
| 2) | Onkar Singh | U/s 120B IPC | the convict shall undergo RI further for one month.
To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month.
To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month |
| | | U/s 467 IPC | To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month |
| | | U/s 468 IPC | To undergo RI for 2 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month. |
| 3) | Balkar Singh | U/s 120B IPC | To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month. |
| | | U/s 467 IPC | To undergo RI for 3 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month |
| | | U/s 468 IPC | To undergo RI for 2 years and to pay Rs.2000/- as fine.
In default of payment of fine, the convict shall undergo RI further for one month. |
| 4) | Avtar Singh | U/s 120B IPC | To undergo RI for |

		U/s 467 IPC	3 years and to pay Rs.2000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month. To undergo RI for 3 years and to pay Rs.2000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month
		U/s 468 IPC	To undergo RI for 2 years and to pay Rs.2000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month
5)	Satwant Kaur	U/s 120B IPC	To undergo RI for 3 years and to pay Rs.2000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month.
		U/s 419 IPC	To undergo RI for 2 years and to pay Rs.1000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month.
		U/s 467 IPC	To undergo RI for 3 years and to pay Rs.2000/- as fine. In default of payment of fine, the convict shall undergo RI further for one month.
		U/s 468 IPC	To undergo RI for 2 years and to pay Rs.2000/- as fine.

In default of payment of fine, the convict shall undergo RI further for one month.

All the sentences were ordered to run concurrently.

Briefly stated the facts of the case as per prosecution story are that complainant Manmohan Kaur had submitted an application dated 2.4.2002 to the police that she is daughter of Bachan Singh, resident of Chatiwind Lahal; that after death of her father Harpal Singh, Onkar Singh, Balkar Singh and Avtar Singh in connivance with Mukhtar Singh, Nambardar, Amrik Singh son of Sohan Singh and Resham Singh Draughtsman executed a forged sale deed regarding her share in the land measuring 16 kanals in their favour.

On receipt of said application, the matter was enquired into by Anti-fraud Staff and DSP and the allegation in the application were found to be correct. Formal F.I.R. was registered and Onkar Singh and Satwant Kaur were arrested. The forged Sale deed in question was recovered at the instance of Satwant Kaur . During the course of investigation, standard thumb impression of Satwant Kaur were obtained in the Court and then those along with the sale deed were sent to the Forensic Science Laboratory, Mohali and as per report received there from, it was found that the thumb impressions of Satwant Kaur matched with the disputed thumb impressions of complainant Manmohan Kaur thereby pointing out that Satwant Kaur impersonated as Smt. Mammohan Kaur at the time of execution and registration of the sale deed.

Harpal Singh, Balkar Singh and Avtar Singh were also arrested in this case. Amrik Singh, Mukhtar Singh were joined in the investigation.

Amrik Singh was found to be innocent. Involvement of Mukhtar Singh was found to be there as such he was arrested in this case. The deed writer was also found to be innocent.

After completion of investigation and other formalities challan against the accused was prepared and filed in the Court. Charge for offences under Sections 419, 467, 468, 471, 120B IPC were framed against all the accused except Mukhtar Singh who had died during pendency of the case. Accused pleaded not guilty and claimed trial.

During the course of prosecution evidence, prosecution examined nine witnesses. PW1 HC Hardial Singh deposed regarding deposit of parcels at Finger Print Bureau, Phillaur. PW 2 MHC Sukhpal Singh testified regarding arrest of accused and then Satwant Kaur on being interrogated having suffered a disclosure statement and getting sale deed recovered from her possession in pursuance thereof. PW3 Amrik Singh an attesting witness of the sale deed dated 12.7.1999 stated that photograph on sale deed is that of Manmohan Kaur, however, it was got executed by Satwant Kaur by impersonating herself as Manmohan Kaur and it was Satwant Kaur who had appended thumb impressions on the sale deed. PW4 SI Mangal Singh deposed regarding taking into possession photograph of Manmohan Kaur, PW5 Neena Kumari, Clerk, D.C office testified regarding registration of sale deed dated 12.7.1999 identifying the signatures of Sub Registrar thereon. PW6 SI Surinderjit Singh deposed regarding registration of F.I.R.. PW 7 ASI Baldev Singh who had carried out the investigation in this case testified in that regard proving various documents. PW8 Smt. Manmohan Kaur-complainant deposed in consonance with the prosecution story stating that she did not executed sale deed in favour of Onkar Singh,

Balkar Singh and Avtar Singh and that photograph on the sale deed is that of her sister-in-law Satwant Kaur. She has stated that she has never fixed thumb impression on sale deed. PW9 SI Jaswinder Kaur from Finger Print Bureau, Phillaur submitted her report Ex.PW9/1.

After tendering in evidence copy of judgment Ex.PX and PY learned APP closed evidence of prosecution.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against them in the prosecution evidence were put to them but they denied the same contending that they are innocent and have been falsely involved in this case. The accused did not lead any evidence in defence.

The trial Court had framed the following points for determination :-

- “1. Whether on 12.7.1999 in the area of Court Complex, Amritsar, all the accused hatched a criminal conspiracy to forged sale deed dated 12.7.1999 in favour of Harpal Singh, Onkar singh, Balkar Singh, Avtar Singh regarding the land belonging to complainant Manmohan Kaur?
2. Whether on the alleged date, time and place, accused Satwant Kaur in pursuance of said criminal conspiracy of her co accused pretended herself to be Manmohan Kaur and executed said sale deed dated 12.07.1999?
3. Whether on the alleged date, time and place, all the accused forged certain document i.e. Said sale deed while intending that it shall be used for the purpose of cheating and used it as genuine one?
4. Whether Handwriting Expert has been an Expert witness and if so whether her testimony can be relied.
5. Whether the identity of accused Satwant Kaur has been established to be the person executing the sale deed dated 12.07.1999 as Manmohan Kaur?”

However, the trial Court acquitted the accused for offence holding the accused guilty for entering into conspiracy to cheat Smt. Manmohan Kaur-complainant by impersonating by forging sale deed a valuable security for the purpose of tendering but there was no evidence that such documents had been used before any authority or institution for getting benefit.

This judgment was challenged by the accused by way of filing the appeal. The appeal was allowed on behalf of accused-appellants Balkar Singh, Sohan Singh and Avtar Singh and they were acquitted for the offences under Sections 120-B, 467, 468 IPC. The appeal on behalf of accused appellant Onkar Singh was dismissed wherein accused Satwant Kaur was granted benefit of probation.

Feeling aggrieved, the complainant has approached this Court by way of filing the Criminal Revision Petition, notice of which was given to the respondents.

The private respondents had put in appearance in the Court earlier through counsel but subsequently the counsel stopped appearing.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

I find that the impugned judgment suffers from various illegalities and infirmities and is not sustainable. Firstly, the main culprit in this case happen to be Smt. Satwant Kaur, who had impersonated as complainant Manmohan Kaur by fixing her thumb impressions which were proved to be those of Satwant Kaur on record giving benefit of probation to a person who had indulged in such a heinous crime was uncalled for. The reason given for grant of probation is least convincing that she is a first

offender and old lady of age 75 years facing agony of trial since year 2002. If she committed a grave offence, she was bound to face consequences for the same. The sentence for the offence showing leniency in such type of matter would rather encourage people to take to the path of crime thinking that they would be let off in a light manner putting up such type of pleas. Further more the reasons for acquittal of Balkar Singh, Sohan Singh and Avtar Singh are least convincing. All these persons happen to be beneficiaries under the sale deed which was a forged and fabricated document and it stood established on record that the same was executed by Satwant Kaur impersonating as Manmohan Kaur as a result of conspiracy entered into by all the accused.

Accordingly, because the sale deed bears signatures of Onkar Singh only as a purchaser could not have resulted in giving clean chit to the other beneficiaries under the sale deed, therefore, the impugned judgment passed by Additional Sessions Judge, Amritsar has no legs to stand. The same is set aside by way of acceptance of the Criminal Revision Petition and the said Court is directed to pass a fresh judgment in accordance with law after hearing the public prosecutor and defence counsel since the matter had already been got delayed. The appeal be disposed of within a period of one month from the date of receipt of copy of this order in the Court. The Registry is directed to return the record immediately to the quarters concerned.

(H.S. MADAAN)
JUDGE

March 27, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No