

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

**CRM-A No. 1031-MA of 2016 (O&M)
Date of Decision: 06.03.2019**

Balwinder Kaur

..... Appellant-Complainant

Versus

Jasbir Singh and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present: Mr. Aayush Gupta, Advocate
for the applicant-appellant/complainant.

Mr. Sanjeev Kumar, Advocate for
Mr. J.S. Dadwal, Advocate
for the respondents.

JASWANT SINGH, J.

1. Aggrieved by the acquittal of Jasbir Singh and Sukhwinder Kaur (respondents herein) for the offences under Sections 419, 420, 406, 407, 468, 471, 120-B of Indian Penal Code (IPC), the complainant/applicant-appellant has filed present application under section 378 (4) of the Code of Criminal Procedure, 1973 (in short “the Code”) for Special Leave to prefer an appeal against the judgment passed by Judicial Magistrate Ist Class, Ludhiana on 24.02.2016.

2. The case of the complainant is that Mohan Singh S/o Sh. Ganda Singh, who died on 27.01.2007, was father of applicant-complainant and was father-in-law of respondent No. 2 (Sukhwinder Kaur). During his life time, he was operating a bank account bearing No. 25126 in Punjab & Sind Bank, Kamran Road, Ludhiana, and thereby he was keeping amount of about ₹ 1,00,000/- (One Lac only). However, he never withdrew the said

amount. As such after his death, all his legal heirs were entitled to get the refund of amount according to their share, but respondents, by forging his signatures, got withdraw the amount of ₹ 1,00,000/- from the bank account of deceased-Mohan Singh. The amount was withdrawn by the respondents by impersonating some other person in place of deceased-Mohan Singh. In order to seek the prosecution of these respondents, the complainant-appellant (*Balwinder Kaur*) led PW evidence and on the basis of her preliminary evidence, the respondents were summoned by the trial Court for commission of offences under Sections 467, 468, 471 IPC. Thereafter, the complainant led the pre-charge evidence and in the pre-charge evidence, she appeared herself in the witness box as CW1 (own witness) and she examined her husband Jaswinder Singh-CW3, besides she examined CW2 Kuldeep Singh.

During post-charge evidence, accused did not exercise their right to further cross-examine the prosecution witness, and as a result thereof, the statement of accused/respondents under Section 313 Cr.P.C. was recorded by the trial Court, in which, all the incriminating circumstances, appearing by way of evidence of prosecution against the respondent/accused, were put to them and they pleaded innocence and false implication.

3. On the basis of weak evidence led by the prosecution, the trial Court has acquitted the respondents for the commission of offences for which they have been charge-sheeted.

4. Learned counsel for the applicant-appellant has argued that it was duly proved on the record before the trial Court that deceased-Mohan Singh during his life-time never presented a cheque in his bank and never

got the amount of ₹ 1,00,000/- withdrawn from his bank. The respondents forged the signature of deceased-Mohan Singh and thereby presented a forged and fabricated cheque in the bank and an impersonator was produced by them in the bank to get the encashment of the forged cheque.

5. The question, which arose for consideration before the trial Court, was whether the respondents/accused in collusion and in connivance with each other, entered into a criminal conspiracy and thereby forged the cheque. Ex. CW2/B to Ex. CW2/D and got the amount of ₹ 80,000/- withdrawn from the bank account of deceased-Mohan Singh.

We have meticulously examined the impugned judgment of the trial Court and we find no flaw in the observation of the trial Court vide which it has acquitted the respondents/accused. It transpires that no witness in the shape of hand-writing expert was examined by the applicant before the trial Court to prove that the disputed cheques did not bear the signatures of deceased-Mohan Singh. No date, time and month has been proved by the applicant-appellant with regard to withdrawal of the amount from the bank account of the deceased-Mohan Singh, because it is abundantly clear that statement of bank account was not produced before the trial Court by the complainant and even appellant did not bother to examine any official of the bank to prove that the amount was withdrawn from the bank account of the deceased-Mohan Singh after his death, on the basis of which, it can be said that in fact the case as projected by the complainant is correct. The self serving statement of the complainant is not sufficient to prove the offence of forgery alleged to be committed by the respondents. The statement of other witnesses on the record is totally insufficient and inadequate to give support

evidence to bring home the charge of fabrication and forgery alleged to be committed by the respondents/accused, we find no merit in the instant application.

6. In view of the facts and circumstances, we are of considered view that the trial Court has rightly recorded the verdict of the acquittal. There is no merit in the present **application**, seeking Special Leave to file an Appeal, therefore, the same stands **dismissed**.

(JASWANT SINGH)
JUDGE

March 06, 2019
'dk kamra'

(ARUN KUMAR TYAGI)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>