

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-919 -MA-2013 (O&M)

Date of decision : 29.01.2019

Sher Singh

.....Applicant

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.Yashjot S.Dhaliwal, Advocate for
Mr.B.S.Virk, Advocate for the applicant
Ms.Tanushree Gupta, DAG Haryana
Mr.Randeep Singh, Advocate for respondent no.s2 to 5

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (Oral)

Heard.

Complainant had filed a complaint under Sections 406, 420, 506, 120-B IPC against the private respondents. After trial, all the respondents were acquitted by learned Sub Divisional Judicial Magistrate, Guhla vide judgment dated 6.8.2013.

Allegations levelled in the complaint shows that according to the complainant, he paid Rs.3,50,000/- as advance to the accused to send him to Spain. The money was paid in presence of Kandhara Singh (CW3). Passport was also supplied but the accused neither returned the money nor arranged the Visa and the ticket. In the Panchayat convened in the presence of his father Jeet Singh (CW2), Kandhara Singh (CW3) and Tehal Singh (CW5) in the house of the accused, the accused refused to return

Rs.3,50,000/- and passport.

The learned Magistrate called for the report of the police under Section 202 Cr.P.C. and thereafter summoned the accused under Section 406 IPC only, holding that no offence under Section 420 read with Section 506 IPC is made out. Learned Magistrate after trial, charge sheeted the accused under Section 406 read with Section 120-B IPC. Learned Magistrate after the trial, acquitted the accused on the ground that Kandhara Singh (CW3), who participated in the talks and in whose presence the money was paid, not examined. Secondly, the documents regarding withdrawal of Rs.1,80,000/- from the Bank was not proved. Learned Magistrate also found some improvements in the statement of the complainant. It was further recorded that Tehal Singh (CW5) has admitted that he was not present at the time of payment or at the time the talks took place between complainant and accused. Angrej Singh brother of the complainant, while appearing as CW4, stated that in the Panchayat accused admitted to make the payment and accused No.3 Jinder Singh took responsibility to repay the amount. In other words, he was a guarantor of the payment. Finding discrepancies, learned Magistrate granted benefit of doubt to the accused.

I am of the view that after going through the evidence, learned Magistrate has taken one of the two possible views. This Court cannot substitute its opinion with the conclusion drawn by the learned Magistrate. There is no ground to interfere in the judgment of acquittal.

Hence, application for grant of leave to appeal is dismissed.

29.01.2019

gk

(Kuldip Singh)

Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No