

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1186-MA of 2017 (O&M)

Date of Decision: 03.12.2019

Baldev Singh

.....Applicant

Vs.

Nirvail Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: - Mr. Raj Karan Singh Verka, Advocate
for the applicant.

HARNARESH SINGH GILL, J.

The applicant has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 20.12.2016 passed by the learned Judicial Magistrate Ist Class, Amritsar vide which the respondents were acquitted of the charge under 420 read with Section 120-B of the Indian Penal Code, 1860 ('IPC' for short).

The finding recorded by the learned Magistrate reads as under:-

“Perusal of the entire evidence on record and Ex. C2 shows that agreement to sell dated 14.6.2005 being subsequent to the agreement to sell dated 11.4.2005 which was executed by Manjit Singh accused No. 1 in favour of accused No. 2. That means accused Manjit Singh executed prior agreement to sell dated 11.4.2005 in favour of accused No. 2. After that accused No. 1 Manjit Singh executed subsequent agreement to sell with complainant. An offence under Section 420 of the Indian Penal Code is committed by a person when he cheats another and thereby induces the other so deceived to deliver any property etc. In present case from the evidence on record it is very clear that accused No. 1 Manjit Singh deceived the complainant

intentionally and the complainant Baldev Singh have been induced to enter into agreement to sell dated 14.6.2005. Cheating amounts to induce the victim to enter into a bargain which he would not enter into if he knew the real fact. In present case statement of CW1 is corroborated by the statement of CW2 and CW3.

Therefore, from the evidence and discussion, this Court finds that no criminal conspiracy can be attributed to accused No. 2 and 3 as they were neither the signatory to the agreement nor had taken any money as per averments of the complainant himself.

Therefore, in view of the above evidence and discussion I find that the complainant has failed to prove the charge of criminal conspiracy or cheating against accused No. 2 Nirvail Singh and accused No. 3 Jaimal Singh. Hence, accused No. 2 Nirvail Singh and accused No. 3 Jaimal Singh are acquitted.”

The learned Magistrate has taken a reasonable and probable view on appreciation of evidence.

Learned counsel for the applicant, although made sincere attempt, however, failed to draw attention of the Court to any substantive error or perversity. Still further, the reasons which have been extracted above, appear to be probable and plausible. Hence, this Court is not inclined to interfere with the judgment of acquittal passed by the trial Court.

From the above, I do not find any ground to grant special leave to appeal. Therefore, finding no merit in the present application, the same is dismissed. Special leave to appeal is declined.

(HARNARESH SINGH GILL)
JUDGE

December 03, 2019

Gurpreet

Whether speaking /reasoned : Yes/No
Whether Reportable : Yes/No