

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

**CRM-A No. 1476-MA of 2017
Date of Decision: 29.04.2019**

Meena Devi

..... Appellant

Versus

Ajay Kumar and others

..... Respondents

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

Present: Mr. Jasdev Singh Mehndiratta, Advocate
for the applicant/appellant.

JASWANT SINGH, J.

1. Present application has been filed under section 378 (4) of the Code of Criminal Procedure, 1973 (in short “the Code”) for grant of Special Leave to file the Appeal against the judgment dated 19.05.2017 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri, whereby the trial Court has acquitted the respondents ***Ajay Kumar S/o Sh. Kiran Pal, Kiran Pal S/o Sh. Puran Singh and Sanjeev Kumar S/o Sh. Bachan Singh*** of the charges under Sections 420, 467, 468, 471, 323 & 506 of Indian Penal Code (IPC) read with section 120-B IPC.

2. In nutshell, the facts of the case are that the ***applicant-Meena Devi wife of Sh. Gulab Singh***, who is real aunt of respondent No. 1-Ajay Kumar son of Sh. Kiran Pal and sister-in-law of respondent No. 2-Kiran Pal son of Sh. Puran Singh has maintained the instant complaint against them with the allegations that a *release-deed dated 24.07.2012* has been got prepared by them from her mother-in-law (***Smt. Vidhyawati***), who is not

able to understand the worldly affairs in collusion with respondent No. 3- Sanjeev Kumar. She has also alleged that her mother Smt. Vidyawati was under medical treatment as she has lost her mental balance and is suffering from various neuro problems. She is a patient of *Alzheimer Dementia* and taking the advantage of her poor health condition, a forged and fabricated document has been got prepared by respondent Nos. 1 & 2 from her and in fact this document dated 24.07.2012 has never been executed by her. She also alleged that on the basis of this forged and fabricated document, these respondents have got entered and sanctioned a mutation in the revenue record in the name of respondent No. 1/Ajay Kumar.

On the basis of these allegations, the trial Court summoned the respondents for commission of offences under Sections 420, 467, 468, 471 & 506 IPC read with Section 120-B IPC. On appearance of the respondents, the applicant led pre-charge evidence and her witnesses were cross-examined and on the basis of a *prima facie* case, the respondents were charge-sheeted for commission of offences under Sections 420, 467, 468, 471 & 506 IPC read with Section 120-B IPC. Thereafter, on completion of post-charge evidence, the trial Court recorded statement/s of respondents/accused under Section 313 Cr.P.C., in which all the incriminating circumstance appearing by way of prosecution evidence were put to them. However, all of them pleaded their innocence and false implication. They in defence evidence produced witness *Ram Kumar (Reader, Tehsil Office) as DW1* and *Neeru Bakshi (Clerk, DC Office) as DW2*.

On the basis of weak evidence led by the prosecution, the trial Court acquitted the respondents for the commission of offences for which all of them had been charge-sheeted.

3. Learned counsel for the applicant has argued that the impugned judgment of the lower Court is wrong both on facts and law. Cogent and convincing evidence led by the prosecution has been wrongly ignored by the trial Court and undue weightage has been given to the evidence produced in defence. It was duly proved on the record that **Smt. Vidhyawati** was not in a position to execute any document due to her mental ailments and the medical evidence was also produced by the prosecution to prove this fact but this fact has been wrongly ignored by the trial Court in coming to the conclusion that document under consideration dated 24.07.2012 is not a forged and fabricated document. As such, the impugned judgment of the trial Court is liable to be set aside and applicant be granted Special Leave to file the instant appeal.

4. We have heard the counsel for the applicant-appellant and have examined the matter meticulously in the light of evidence produced by both the parties and have arrived at an irresistible and inescapable conclusion that the trial Court has not committed any illegality, much less irregularity in coming to the conclusion that prosecution has totally failed to prove its case beyond shadow of reasonable doubt.

5. There is ample evidence on the record that document under question (release deed dated 24.07.2012), is a registered document and DW1-Ram Kumar, (Reader, Tehsil Office) has testified that the document was registered in Tehsil office and DW2-Neeru Bakshi (Clerk, DC Office)

has testified that **Smt. Vidhyawati** herself presented this document for registration and the same was executed by her in favour of her grandson (Ajay Kumar). A registered document carries a rebuttable presumption of being validly executed and it cannot be set aside merely on the asking of a party, who has come forward in the Court with the allegations that the document, under question, is a forged and fabricated document, without leading any cogent evidence. In the instant case, the prosecution has examined its witnesses, who were not able to prove on record that at the relevant time **Smt. Vidhyawati** was not keeping good mental health and was not in a sound state of mind. Dr. Bal Krishan (CW-1) has nowhere stated that she was not able to execute any document, due to her mental ailment. Further, the prosecution has not examined any witness of the locality to prove that at the relevant time i.e. on the date of execution of the release deed, **Smt. Vidhyawati** was forcibly abducted by the respondents-accused and thereby they procured document under question in their favour. There is presumption, rather strong presumption that official acts have been performed in appropriate and legal manner. In the absence of sound state of mind of executant, no Registration Officer could dare to register the document. Likewise, in case **Smt. Vidhyawati** was not able to execute any document, there was no scope for the Registration Authority to register the document.

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

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

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