

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-1094-MA-2014

DATE OF DECISION: JULY 23, 2019

SARJIWAN KUMAR

...APPLICANT

VERSUS

MANGAT RAM & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SHEERY K. SINGLA, ADVOCATE
FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

Leave to appeal has been sought for by the applicant against the judgment dated 20.5.2014 passed by the Judicial Magistrate 1st Class, Nabha whereby the respondents were acquitted of the charge under Section 420 read with Section 34 IPC, in a complaint case.

Learned counsel for the applicant contends that the impugned judgement of acquittal passed by the trial Court is not based on correct appreciation of evidence on record as the property agreed to be sold by accused to the applicant (complainant) was the same which was sold subsequently by the vendor in favour of Ashwani Kumar (Accused No.2). He contends that the trial Court has construed the properties to be different and proceeded to acquit the accused.

During the course of hearing, it is not disputed by learned counsel for the applicant that on the same issue, a civil suit bearing No.RT-249/29.9.2012 was brought by him for specific performance of the contract.

However, while decreeing the same in favour of the applicant-complainant,

no specific performance of the contract was ordered by the Civil Court and the earnest money paid by the applicant was ordered to be refunded. Besides, a perusal of the impugned judgement reveals that the Court has proceeded to acquit the accused on the ground that the complainant has failed to adduce any evidence to establish that property contained in both these documents i.e., agreement to sell dated 8.12.2006 (Ex.C1) in favour of the complainant and sale deed dated 19.12.2007 (Ex.C1) in favour of accused no.2 was the same, as the surroundings of the properties were different. The trial Court has categorically noticed the variation in the description of the property and therefore, has rightly proceeded to acquit the accused. It is also not disputed by the learned counsel for the applicant that the decree passed by the Civil Court has attained finality and no appeal has been filed by any of the parties.

It is clear that the judgement is founded on correct appreciation of evidence. A possible view has been adopted by the trial Court. Resultantly, this Court does not find any reason to interfere with the same and therefore, the leave to appeal is declined.

July 23, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No