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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4012-2017

Date of Decision : January 21, 2019

Pal Singh and another Petitioners

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Parampreet Singh Paul, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
for respondent-State .

Mr. Jaideep Verma, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment dated 27.09.2017 passed by learned Sessions Judge, Rupnagar whereby judgment of acquittal recorded by learned Judicial Magistrate Ist Class, Rupnagar on 23.1.2017 was set-aside and the matter was remanded back to learned trial Judge for deciding the matter afresh.

2. Facts relevant for the purpose of decision of the present petition; the detailed facts have been given in the order passed by Courts below. The allegations against accused Pal Singh and Himmat Singh, petitioners herein, in this case are regarding forging and fabricating sale deed dated 15.07.1997 in their favour by producing some persons by way of impersonation of Dhera Shah and Nand Ram. The sale deed was

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attested by Balwant Singh, Nambardar and Sewa Singh, Sarpanch who had wrongly and fraudulently identified the impersonators as Dhera Shah and Nand Ram. Since Dhera Shah and Nand Ram had died long back ago, they could not execute such sale deed. On coming to know about such fraud and forgery, Anil Bhasin, grandson of Nand Ram moved complaint to the police and on that basis, FIR No. 138 dated 16.10.2010 under Sections 419, 420, 467, 468, 120-B IPC was registered at Police Station Sadar, Rupnagar against the accused persons.

3. During trial, learned trial Court completed various proceedings of trial including framing of charges against the accused, recording of statements of the prosecution witnesses as well as examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and defence version on record, the trial Judge acquitted the accused persons vide judgment dated 23.1.2017.

4. Feeling aggrieved of such order of acquittal, the State through Public Prosecutor, preferred appeal before the Court of Session and learned Sessions Judge, Rupnagar passed judgment dated 27.09.2017 thereby setting aside the judgment of acquittal and remanded the matter for trial to learned trial Judge.

5. While challenging the judgment of reversal having been passed by learned Sessions Judge, Rupnagar, learned counsel for the petitioners contended that learned Magistrate has already considered the matter in its entirety and while considering the prosecution case as well as defence version had acquitted the accused. There was absolutely no reason for learned Sessions Judge to reverse the judgment of acquittal.

6. Learned State counsel as well as learned counsel representing

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respondent No.2 contended that learned Sessions Judge has given detailed reasons while setting-aside judgment of acquittal. More so, the matter has been remanded back to the trial Judge to decide it afresh by way of taking into consideration the documents which were ignored while pronouncing the judgment dated 23.1.2017.

7. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that learned Magistrate has certainly passed the judgment of acquittal without considering some of the most important and valuable piece of evidence. Learned trial Judge while deciding the matter and pronouncing judgment of acquittal dated 23.1.2017 was well aware of the legal proposition that normally judgment of acquittal should not be interfered unless it is a case of ignoring most important material and documents available on the file. On the basis of facts of this case and material available on the file, it reflects that learned Magistrate has completely ignored all those important material and documents which have been pointed out by learned Sessions Judge. Learned Sessions Judge has rightly pointed out that Civil Court judgment Ex. PW3/H decided on 22.07.2015 was even not discussed in the judgment of acquittal, though the same was available on the file. As per the said judgment, suit for possession and declaration filed by the complainant and other legal heirs of Nand Ram and Dhira Shah has been decreed and sale deed Ex. PW4/A-1 has been set-aside by holding that the same was result of impersonation because Dhera Shah and Nand Ram had already died. If such are the findings by the Civil Court, there was absolutely no reason for learned trial Magistrate to not even consider the said document and not to discuss in the judgment. This fact alone

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establishes that learned trial Magistrate while recording the judgment of acquittal has not considered the most valuable material and evidence available on the file. While proceeding further, learned Sessions Judge has given the positive finding on the basis of record from the office of Ministry of Rehabilitation wherein photograph of Nand Ram was affixed and his signatures were in English language. If the said document is compared with the photograph of Nand Ram on the back of Ex. PW-4/A-1, that certainly makes out a case that there may be forgery of document. This Court purposely avoid to express any opinion on this point at this stage because the matter is yet to be considered by learned trial Magistrate afresh as per order passed by learned Sessions Judge, Rupnagar. Learned Sessions Judge has also considered other infirmity but for the same reason, that the matter is yet to be re-considered by learned Magistrate, this Court refrains from making any observation at this stage, but certainly there is absolutely no infirmity or illegality in the judgment dated 27.09.2017 passed by learned Sessions Judge, Rupnagar whereby the judgment of acquittal passed by learned trial Judge dated 23.1.2017 has been set-aside and the matter has been remanded for fresh decision. However, any observation made above shall not be construed as an expression of opinion on the merits of the case.

8. Resultantly, there is no merit in the present revision petition and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

January 21, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes