

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

106

CRR-2064-2018 (O & M)
Date of Decision:07.02.2019

State of Haryana

...Petitioner

Versus

Darya Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sukhdeep Parmar, DAG, Haryana
for the petitioner.

MANOJ BAJAJ, J.

State of Haryana has preferred this revision petition against the judgment dated 12.10.2017 passed by the Appellate Court, in criminal appeal No.102 of 2014, whereby the judgment of acquittal dated 10.02.2014 passed by the learned trial Court arising from FIR No.172 dated 21.04.2005 under Sections 417, 418, 420, 426, 467 and 468 of the Indian Penal Code ('IPC' – for short) registered at Police Station City Thanesar was upheld.

Briefly stated the facts of the case are that complainant-Amar Singh had lodged the FIR with the allegations that his father Lachhman Dass (since deceased) purchased a plot through sale deed No.270 dated 20.04.1981 from vendor Lajja Ram (accused). After purchase, site plan was got sanctioned from Municipal Committee, Thanesar. After death of Lachhman Dass, complainant inherited the same on the strength of the Will. It was narrated in the FIR that complainant made various requests to the Municipal Council, Thanesar for making the relevant entry in the record and produced all the relevant documents in that regard. Later on, the complainant came to know that Lajja Ram had sold this house to accused

Hukam Chand in collusion with officials of Municipal Council and a fresh site plan was prepared in the name of the said buyer Hukam Chand (accused), to reflect him as an owner of the property. Hukam Chand had further sold this property to Darya Ram (accused) and in the record of Municipal Council, Darya Ram has been shown as owner of the property. On these allegations, FIR No.172 dated 21.04.2005 under Sections 417, 418, 420, 426, 467 and 468 of the Indian Penal Code ('IPC' – for short) was registered at Police Station City Thanesar.

After registration of the case, the investigation was carried out and a final report under Section 173(2) was filed in the Court.

After completion of formalities, the charges were framed and the trial commenced. The prosecution in all examined 4 witnesses. The learned trial Court after examination of the evidence on record came to the conclusion that the prosecution has failed to establish the charges. The learned trial Court also arrived at a conclusion that the evidence of complainant (PW-2) suffers from material discrepancies. It was noticed that PW-2 has admitted in his cross-examination that he had never seen the plot and was not aware that where it existed. He never filed any civil suit against the accused, besides it was also admitted that dimension of his plot is different from the description of the plot given in the sale deed. Nothing was stated by the witness against the accused persons.

Above all, the learned trial Court has observed that as far as Dariya Singh is concerned, he is not involved in the alleged crime as he has purchased plot from Hukam Chand. The Court proceeded to acquit the accused.

Aggrieved against the same, the appeal was filed against two

accused persons namely Lajja Ram and Dariya Ram as the other two co-accused namely Hukam Chand and B.D. Sharma had died, during the proceedings before the learned trial Court.

During the pendency of the appeal, accused Lajja Ram also expired and the proceedings against him were dropped vide order dated 15.09.2017. The other accused namely Kehar Singh already stood discharged by the learned trial Court. The revision petition survives only in respect of accused Dariya Ram and regarding him the Appellate Court has affirmed the findings of the learned trial Court.

The relevant observation of the Appellate Court is extracted below:-

“As per him, the accused Darya Ram, in purchasing the said plot/property from the said Hukam Chand (since deceased) amounts to an offence under section 420 IPC etc. However, he no where says that the accused Darya Ram was party to the sale deeds Ex.PW4/A and Ex.PW4/B. If his deposition is minutely perused, it rather comes out that he did not know about the sale deeds Ex.PW4/A and Ex.PW4/B till the year 2004. May be that he has now alleged that the accused Darya Ram was in criminal conspiracy with the accused Lajja Ram (since deceased) and Hukam Chand (since deceased) leading to sale deed of said plot/property in his favour. At the same time, he has not produced any reliable evidence in that regard. The contents of the sale deed Ex.PW4/A and Ex.PW4/B do not show that he had knowledge of the said sale deeds. He was not also knowing the attesting witnesses thereof. Even if his stand/argument that the accused Darya Ram purchased the said plot/property from the accused Hukam Chand (since deceased) is accepted, it cannot be said that in

such purchase he was in criminal conspiracy with the accused Hukam Chand and/or Lajja Ram. In fact, he is stated to have purchased the said plot/property from its previous owner for a sale consideration. His previous owner had also a valid title in the shape of sale deed Ex.PW4/B in his favour. In view thereof, it cannot at all be said that the accused Darya Ram was in fact in criminal conspiracy with the said Hukam Chand and Lajja Ram in the sale/purchase of the said plot/property. Furthermore, the sale deed Ex.PW4/A is stated to have been executed by the accused Lajja Ram (since deceased) in favour of Sh. Lachhman Dass. He is stated to have sold the plot/property in question twice. He is stated to have received sale price of the plot/property in question from Sh. Lachhman Dass and then from the accused Hukam Chand. Therefore, if the case set up by the complainant is believed true, it makes out some offences only against the accused Lajja Ram (since deceased) against whom the proceedings have been dropped. So far as accused Darya Ram is concerned, he is stated to have purchased the plot/property in question through a sale deed on payment of sale price thereof.”

The above finding recorded by the Appellate Court is based on the correct appreciation of evidence and material on record particularly the evidence of complainant PW-2. This Court does not find any illegality or impropriety in the impugned judgment dated 12.10.2017 passed by the Appellate Court. Therefore, no ground is made out to interfere with the said finding of the Appellate Court.

Revision petition dismissed.

07.02.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No