

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

**Criminal Misc. No. A-1578-MA of 2014 (O & M)  
Date of Decision:-07.5.2019**

Roor Singh

...Appellant

Versus

Gurbhagat Singh @ Lalli

...Respondent

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present:- Mr. M.S. Dua, Advocate for  
Mr. Parvez Chugh, Advocate  
for the appellant.

**MANOJ BAJAJ J.**

Applicant-appellant has challenged the judgment dated 05.7.2013 passed by the Judicial Magistrate 1<sup>st</sup> Class, Ferozepur in a Criminal Complaint case No.473-1/13.9.2005/07.12.2012, titled as “Roor Singh vs. Gurbhagat Singh @ Lalli”, under Sections 406 and 420 IPC, whereby the trial Court has acquitted the respondent-accused.

The prosecution was based upon a complaint case against the respondent for the offences punishable under Sections 406 and 420 IPC.

Learned counsel for the appellant has been heard and with his able assistance I have gone through the case file carefully.

The complainant has set up a case that accused is a commission agent, who was running commission agency, namely, Lalli Commission

Agent at village Wara Bhai Ka, having license No.1073 TMB/PMB effective from 05.9.1998 to 31.3.2004. Subsequently he worked as sole proprietor of M/s Tejinder Commission Agent. It was narrated that complainant being an agriculturist used to sell his crop through a commission agency belonging to the accused-respondent.

In nut-shell it was stated that the accused person failed to make the payment of the sold crop to the complainant and also never issued Form 'J' in favour of the complainant and his sons despite various requests.

After examining the material, complaint and evidence on record, the accused was summoned for the offence punishable under Section 406 IPC. Thereafter the trial progressed and the trial Court proceeded to acquit him vide impugned judgment dated 05.7.2013.

Learned counsel for the applicant states that the complainant had adduced sufficient evidence to bring home the guilt of the accused, however, the trial Court erroneously proceeded to acquit him.

It is apparent that to attract the offence punishable under Section 406 IPC, the essential ingredient is 'entrustment'. In the present case the complainant voluntarily sold his crop to the accused persons. It was also admitted by complainant that he alongwith his sons had been selling their crop since the year 1989, and therefore, the dispute between the parties is of a civil nature regarding payment of amount on account of their business transactions.

The trial Court has considered the entire evidence on record and has proceeded to acquit him.

In view of the above, it is evident that the trial Court has adopted possible view and therefore the impugned judgment does not suffer from perversity warranting any interference. Resultantly, the appeal is dismissed and the leave to appeal is also declined.

May 07, 2019  
Vijay Asija

( MANOJ BAJAJ )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes / No  
Yes / No