

**CRM-A-1043-MA-2016,
CRM-A-1044-MA-2016 and
CRM-A-1081-MA-2016**

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

Date of Decision: 26.02.2020

1. CRM-A-1043-MA-2016

Punjab Urban Planning and Development Authority

... Applicant

Versus

Prem Kumar

... Respondent

2. CRM-A-1044-MA-2016

Punjab Urban Planning and Development Authority

... Applicant

Versus

Satnam Singh

... Respondent

AND

3. CRM-A-1081-MA-2016

Punjab Urban Planning and Development Authority

... Applicant

Versus

Jagir Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashish Grover, Advocate,
for the applicant.

HARNARESH SINGH GILL, J.

This order shall dispose of the above-noted applications

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as common questions of law and facts are involved therein.

The complainant (applicant herein) has filed the above captioned applications under Section 378(4) Cr.P.C. seeking special leave to appeals against the judgments dated 02.09.2015 passed by the learned Judicial Magistrate Ist Class, Batala, in three separate complaints bearing No.09 of 2000, 23 of 2004 and 197 of 2004, filed under Sections 3, 5, 8, 9, 14(2), 15, 18 and 21 of the Punjab Apartment and Property Regulation Act, 1955 (for brevity, 'the Act'), vide which the respondents were acquitted of the charges framed against them by giving the benefit of doubt.

For the purpose of facility, the facts are being taken from CRM-A-1043-MA-2016.

The complainant-applicant filed complaint against five accused, including respondent-Prem Kumar, that they had carved out a colony for selling the residential plots without any sanction or permission from the competent authority.

It is pertinent to mention here that service qua the remaining accused was dispensed with.

The charges were framed under Sections 3, 5, 8, 9, 14 (2), 15, 18 and 21 of the Act.

Vide judgment dated 02.01.2012, the learned Judicial Magistrate Ist Class, Batala, convicted the accused and imposed a fine of Rs.10,000/- by holding that the complainant had been able to prove that as per the certified copies of *jamabandi* Ex.C-1 and C-2, the accused are the owners of the land and they had sold the plots to different persons through sale deeds. It was also held that

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the accused had carved out an unauthorized colony without obtaining any permission from the competent authority as per the Act.

Being dissatisfied with the aforesaid judgment, a revision was filed. The Appellate Court, vide order dated 12.02.2015, set aside the judgment and order dated 02.01.2012 passed by the trial Court, holding that no plea of defence had been recorded and no defence had been provided to the accused and all the statements under Section 313 Cr.P.C. were stereo-type statements. The matter was remanded to the trial Court for a fresh adjudication.

Thereafter, vide impugned judgment dated 02.09.2015, the respondent was acquitted of the charges framed against him by giving the benefit of doubt.

While acquitting the accused, the learned Magistrate has taken into consideration that powers of the State Government have been delegated to the Assistant Chief Administrator to prosecute the accused, but as per the Act, there is no provision for the delegation of powers and that the said powers are only with the Administrator, PUDA. Therefore, the sanction letter Ex.C-4 was declared invalid. Moreover, the authority granting sanction had no territorial jurisdiction. The area in question is situated in the territory jurisdiction of Amritsar, but the sanction had been granted by the officer of Jalandhar. Accordingly, the accused was acquitted of the charges by giving him benefit of doubt.

Aggrieved against the impugned judgments, the present

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applications have been filed.

I have heard the learned counsel for the applicant and with his able assistance, have gone through the record of the case.

There is no dispute that no person can carve out colony without the prior permission from the appropriate authority and if a colony is carved out without any sanction, the said person can be prosecuted.

In the case in hand, though the complaint had been filed under the Act, yet there is no provision to delegate the powers of the State Government, which are vested with the Administrator. Thus, the sanction letter Ex.C-4 becomes invalid. No demarcation of the land had been done. Moreover, no site plan was placed on record by the complainant to show the directions and dimensions of the area in which the residential plots had been carved out.

In view of the above, I do not find any patent illegality or irregularity in the impugned judgment, which may warrant interference by this Court in the present applications seeking special leave to appeal.

In view of the above, the present applications under Section 378(4) Cr.P.C. being devoid of any merit, are dismissed. Leave to appeal is declined.

26.02.2020
parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Note: Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No