

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

CRM-A-1924-2019 (O&M)
Date of Decision: 23.01.2020

Dharamvir Singh

.....Applicant/Appellant

VS.

Ram Avtar and another

.....Respondents

**CORAM : Hon'ble Mr. Justice Jitendra Chauhan and
Hon'ble Mrs. Justice Archana Puri.**

Present : Mr. Vikram Singh, Advocate,
for the applicant-appellant.

JITENDRA CHAUHAN.J.

This is an application for leave to appeal against the judgment dated 30.01.2019 passed by Judicial Magistrate First Class, Karnal, vide which the accused/respondents were acquitted of the charges in a complaint case titled as “Dharamvir Singh vs. Ram Avtar Singh and another filed under Sections 406, 420, 467, 468, 471 and 506 read with Section 34 IPC.

The brief facts of the case as noticed in the judgment passed by the trial Court in paragraph No. 2 are reproduced as under:-

“2.The precise facts of the case of the prosecution/complainant are that complainant started a brick kiln in partnership along with accused persons in equal shares under the name and style of M/s Dharam Batta company in

terms of partnership deed dated 13.12.2010 between complainant and accused persons. The complainant and accused persons were running the said company under the License No. KNL/BK/547 which was obtained from the Food and Supplies Department, Karnal. Further, the brick kiln was run on the land which was exclusively taken on lease by the complainant and other landlords also gave land for the purpose of lifting the earth/soil for preparing bricks. Further, Tractors used for lifting bricks were also in his name. Accounts of the bricks kiln were maintained by accused persons from the very beginning as he used to remain out of station for managing affairs of the Bricks kiln. Accused persons in his absence in the month of May & August 2012 sold bricks in large quantity without showing transactions of sale in accounts books. Accused persons also executed the lease deed of the land for lifting the earth/soil with other people without his permission & consent and started dealing with coal dealers in violation of terms and conditions of the partnership deed dated 13.12.2010 between them. Thereafter, he requested accused persons to produce records but they postponed the matter in one pretext or the another. Feeling annoyed & aggrieved he filed a Civil Suit for rendition of account and permanent injunction in Civil Courts at Karnal. Thereafter, the complainant was shocked to see the contents of the written statement as well as Dissolution Deed dated 18.05.2011 filed by accused persons in the court as the dissolution deed dated 18.05.2011 filed by accused persons was a forged and fabricated document and same has been procured by accused persons by putting his forged signatures, thereby causing wrongful gain to them and wrongful loss to the complainant. In this way accused persons committed fraud upon him by procuring forged and fabricated Dissolution Deed dated 18.05.2011 in collusion with witnesses and on the basis of which accused persons denied to render accounts to

the complainant. He further requested accused persons to desist from their said acts but of no avail & in turn accused persons threatened him with dire consequences of life. Hence, the present complaint."

After preliminary evidence, the accused were summoned to face trial under Sections 406, 420, 467, 468, 471 and 506 read with Section 34 IPC.

In pre-charge evidence, the complainant had examined five witnesses, namely, CW-1 Mohan Singh, CW-2 Dharmvir Singh, Complainant, CW-3 Satish Kumar, Record Keeper, Judicial Record Room, Karnal, CW-4 Lalit Chopra, Advocate & CW-5 Sunil Verma, Forensic Document Examiner, Kurukshetra.

Charges Sections 420, 467, 468, 471 and 506 read with Section 34 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In post charge evidence, accused further cross-examined complainant Dharmvir Singh (CW-2), Lalit Chopra, Advocate (CW-4) & Sunil Verma, Forensic Document Examiner, Kurukshetra (CW-5). Further, the prosecution led no evidence in post charge evidence.

The statements of accused under Section 313 Cr.P.C were recorded in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused to which the accused denied and pleaded false implication.

In defence evidence, the accused had examined DW1 Krishan Lal, DW-2 Vikram Singh, DW-3 SI Madan Lal, Food &

Supply, Karnal, DW-4 Sandeep Singh, DW-5 Vaidyanath Prasad, DW-6 Deepak Sharma, Forensic Document Expert, DW-7 Satish Kumar, Record Keeper, Judicial Record Room, Karnal & DW-8 HC Deshraj.

After appraisal of evidence, the learned trial court vide impugned judgment dated 30.01.2019, acquitted accused/respondents of the charges framed against them.

Aggrieved against the impugned judgment, the present appeal has been filed by the complainant

It is contended by the learned counsel for the appellant/complainant that the learned trial Court has committed a grave error in acquitting the respondents. The learned trial Court has not appreciated the evidence in correct perspective. The respondents had forged a dissolution deed, therefore, offence under Section 420 IPC is very much made out against the accused. By examining Finger Print Expert as CW-5, the appellant had proved that his signatures were forged by the accused,

We have heard the learned State counsel and have gone through the case file very carefully.

The learned trial Court has acquitted the accused on the following grounds:-

1. The complainant had not attributed any overt act of making of a false or misleading representation inducing him to deliver any property or to do or omit to do anything which he would not do or omit if he had not been so deceived. Only general allegations have been levelled

against the accused.

2. The dispute inter-se the partners seems to be a dispute of civil nature. The complainant had already resorted to civil proceedings by way of filing suit for rendition of accounts. The evidence of CW-1 Mohan Singh was discarded being hearsay. There is no direct evidence with regard to alleged forgery of said partnership dissolution deed dated 31.03.2011.

3. The signatures were tallied from a photocopy of the dissolution deed dated 31.03.2011. The dissolution deed was witnessed by DW-4, Sandeep Singh, who deposed about its authenticity. This fact was further supported by CW-4 Lalit Chopra who attested the said deed being Notary Public. DW-1 Krishanlal has also testified that the complainant had signed the dissolution deed in his presence. Neither the original dissolution deed was brought on record nor permission to lead secondary evidence was sought from the Court.

We have gone through the case file carefully and find that the judgment of acquittal has been passed rightly. There is no evidence with regard to forgery of the dissolution deed 31.03.2011 as alleged by the complainant. The complainant has levelled general allegations of rendition of accounts qua which he had already filed a civil suit which later on stood withdrawn by him. There is at all no evidence on record with regard to criminal intimidation. The prosecution has failed to travel from “may be true” to “must be true”. There is no reason to differ from the view taken by the learned trial Court. The judgment of acquittal does not suffer from any perversity or illegality calling for interference by this Court, therefore, the present application for leave

to appeal is declined.

Thus, the application seeking leave to appeal is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

23.01.2020.
SN

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