

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-420-2017

DATE OF DECISION: MARCH 12, 2020

DE VWATI

...PETITIONER

VERSUS

MAHAVEER AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. JOHAN KUMAR, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

The petitioner-complainant has filed this revision petition against the judgement dated 3.10.2016, passed by the Addl. Sessions Judge, Palwal whereby the judgement of acquittal dated 27.4.2015 passed by the Judicial Magistrate 1st Class, Palwal in case FIR No.252 dated 16.10.2009 under Sections 406, 420 IPC, Police Station Camp Palwal was upheld.

The brief facts as noticed by the appellate Court read as under:

“The present case FIR No.252 daed 16.10.2009, under Sections 406, 420/120-B of the Indian Penal Code, 1860, P.S. Camp Palwal was registered on the compliant of Devwati wife of Dharambir on the allegations that accused Mahaveer has told her that their land of 150 Sq.yds is covered under Bukram factory. He persuaded the complainant to sold the said land and further told her that he will take the possession of that land on his own. Accused Mahavir also paid Rs.1,50,000/- to the complainant but by playing fraud got transferred 1500 Sq.yds

of land belonging to complainant instead of 150 Sq.yds and now accused are adamant to take forcible possession of 1500 Sq.yds of land. It is further stated that apart from land of Bukram factory, complainant also had other hand near S.P. Office, Palwal and accused wants to take possession of the same.”

The trial Court after examining the evidence and material on record held that the prosecution has failed to prove the guilt of the accused-respondents beyond reasonable shadow of doubt and proceeded to acquit them of all the charges vide its judgement dated 27.4.2015. The appeal carried against the judgment of the trial Court was also dismissed by the appellate Court on 3.10.2016.

Learned counsel for the petitioner contends that the trial Court has wrongly proceeded to acquit the accused on the ground that the sale deed is a registered document. He submits that the complainant is an illiterate lady and the land actually sold was 150 sq. yards which was converted to 1500 sq. yards by the accused. He submits that the impugned judgement warrants interference. During the course of the hearing, learned counsel for the petitioner has fairly stated that the civil suit filed by the complainant to challenge the sale deed also failed and the same was dismissed.

After hearing Learned counsel for the petitioner, this Court finds that the trial Court has taken into consideration the entire evidence on record while acquitting the accused. It was specifically noticed that the

statements of material witnesses PW2 Mamta, PW3 Devwati, PW4 Suresh and PW6 Mohandai were contradictory on material aspects and the witnesses to the instrument had no enmity with the complainant who had attested the sale deed at the time of registration. The appellate Court also affirmed the acquittal of the accused as recorded by the trial Court. The reasoning given by the appellate Court reads as under:-

“22. It is also pertinent to mention here that the sale deeds Ex.PW5/A and Ex.PW5/B were executed on 30.12.2005 and registered on 3.1.2006, whereas the present complaint Ex.PW3/A on the basis of which the present FIR has been registered is dated 16.6.2009. Although it is true that mere delay in registration of the FIR is not fatal to the prosecution case, if the delay has been explained satisfactorily. But in the present case prosecution has not been able to give any satisfactory explanation regarding the delay in registration of the FIR and it creates doubt over the prosecution case.

23. Moreover, accused have also produced one Judgement and Decree Ex.D1 and D2 vide which civil suit filed by PW2 Mamta, PW3 Devwati, PW4 Suresh and PW6 for declaring the sale deeds Ex.PW5/A and Ex.PW5/B as null and void was dismissed as plaintiffs have failed to prove the alleged fraud by the accused. It has been rightly held by the trial Court that PW2 to PW6 even failed to prove the alleged fraud of the accused even by preponderance of evidence, whereas in the

present case the burden on the prosecution was more stricter and they failed to discharge the burden also.”

A perusal of the above shows that the Courts below have adopted a possible view which is based on correct appreciation of evidence and material on record and therefore, this Court is of the opinion that where there are two views possible, the view in favour of the accused has to be adopted.

In view of the above, no ground is made out for any interference.

The petition is dismissed.

March 12, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No