

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

CRM-A-450-2021

Reserved on: 14.07.2022

Date of Decision: 01.08.2022

State of Haryana

. . . . Appellant

Vs.

Shyam Lal and another

. . . . Respondents

**CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR JUSTICE H.S. MADAAN**

Present: - Mr.Vivek Saini, Additional Advocate General, Haryana,
for the appellant.

M.S. RAMACHANDRA RAO, J.

This application is filed by the State of Haryana under Section 378(3) Cr.P.C. seeking Leave to Appeal against the judgment dt.14.02.2020 in SC No.1 of 2018 passed by the Additional Sessions Judge, Kurukshetra (for short '*the Sessions Court*').

An FIR No.3 dt.20.03.2012 was registered against the respondents herein and another accused Babli Devi under Sections 409, 420, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 and Section 13(1) of the Prevention of Corruption Act, 1988. It was alleged therein that Babli Devi, in collusion with the respondents herein and other accused, had misappropriated an amount of ₹ 5,96,339/- out of the funds under the National Rural Employment Guarantee Act Scheme [for short '*the Scheme*'] by falsely showing execution of work and engagement of labourers under the Scheme.

It is alleged by the prosecution that Babli Devi was Sarpanch of Village Adhon, that under the said Scheme for development of the Village an

amount of ₹ 24,91,487/- was received in account No.0873000111063163 during the period 31.12.2008 to 29.07.2009, that it was found that she had shown that some Linda Nala was dug out by showing name of some labourers but in fact the said *nala* had already been dug out; and for the boundary wall of johar, one lakh bricks were shown to have been purchased but more than 50% of the said bricks were used by Babli Devi in the construction of her own house. It is also alleged that sub-standard material was used in the construction of boundary wall whereas higher bills were submitted by the Sarpanch in connivance with the other accused persons.

After examining PW1 to PW25 and DW1 to DW3 and after marking Exbts. P1 to P30, Mark B, D1 to D3 and DW1/A, DW2/1 to DW2/10 and DW3/1 to DW3/193, the Sessions Court convicted only Babli Devi/accused No.1 but acquitted the respondents herein.

The Sessions Court held that as regards respondent No.1-Shyam Lal, the only allegation against him was that he had worked in place of Babli Devi-Sarpanch and put her signatures on documents and there were entries of huge transactions in the account of his wife but, the Forensic report Ex.P39 was to the effect that there was no forgery of the signatures of Babli Devi by respondent No.1. So the Sessions Court held that respondent No.1 cannot be said to have acted in connivance with her to embezzle any amount.

As regards the allegation that Babli Devi in connivance with respondent No.2 used sub-standard material while raising construction over the wall and digging up the pond is concerned, Measurement book Ex.P24, which relates to construction of the wall, did not have the signatures of respondent

No.2 and so the Sessions Court held that there was nothing to show that he had supervised such work.

As regards the charge relating to the digging up the pond and the allegations against Babli Devi and respondent No.2 herein are concerned, Ex.P16-measurement book was produced but the technical report Ex.P11 said after 4-5 rainy seasons digging of pond cannot be checked at a belated stage. Therefore, this allegation was also not found true.

Thus, both the respondents were found not to have committed any of the offences mentioned above and only Babli Devi was convicted.

Though, Mr.Vivek Saini, Additional Advocate General, Haryana contended that leave should be granted to the State to file appeal against the impugned judgment and that there is material to prove the charges against the respondents, we are of the opinion that the findings recorded by the Sessions Court are based on an appreciation of evidence and it cannot be said that trial Court has based its judgment on surmises and conjectures.

Therefore, we do not think that this is a fit case for grant of Leave to the State to challenge the impugned judgment.

Accordingly, the application is dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

01.08.2022
Vivek

(H.S. MADAAN)
JUDGE

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No