

In the High Court of Punjab and Haryana at Chandigarh

**CRM-A-2411-2019
Reserved on: 17.11.2022
Date of Decision: 21.11.2022**

Anil

.....Applicant

Versus

Hanumant Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Sarfraj Hussain, Advocate
for the applicant.

SURESHWAR THAKUR, J.

1. The instant application is directed against the verdict made on 20.08.2019, upon complaint bearing No. COMI/40/2015 by the learned Sub Divisional Judicial Magistrate, Kosli, in respect of a private complaint carrying therein offences constituted under Sections 409, 419, 420, 468 and under Section 471 IPC, whereons a verdict of acquittal, was made in favour of the accused.

Factual Background

2. The brief facts of the case are that the accused Sarpanch allegedly misappropriated the Gram Panchayat development funds and used the same for personal benefit. The accused is alleged to mention the name of certain labourers and mason(s) in the muster roll for the month of March, 2013, and at serial No. 1, 2, 3 and 9 the names of Mukhtiar son of Krishan,

Mohan Lal son of Prakash and Vikram son of Attar Singh had been mentioned. It was further alleged that the above persons have not appended their signatures on the muster roll but all the above mentioned signatures are forged by the Sarpanch. Moreover, it is alleged that they never received any money from the Gram Panchayat. That in the similar manner, the muster roll register for the month of October 2012, April 2013, June 2013, July 2013 and August 2012, depicts Mota @ Rakesh son of Hoshiyar, Patwari @ Ashok Kumar son of Ramkishan, Manoj son of Ratan Singh, Mota @ Deepak son of Surender, Mistri Vikram son of Attar Singh, Mukhtiar son of Krishan and Sunder son of Mange Ram, to receive monies from the Gram Panchayat, and, it is also depicted in the muster roll(s) that these persons appended their signatures thereons, but all the signatures are alleged to be forged by the Sarpanch, with an intention to misappropriate the panchayat funds. It is also alleged that the above mentioned persons neither appended their signatures on the muster roll nor received the money as depicted in the muster roll(s). In addition, the accused is alleged to construct one personal street out of the panchayat fund with an intention to cause wrongful gain to Kishan Lal and Shish Ram. The accused also allegedly misappropriated funds out of the panchayat fund by making wrong entries in the records regarding construction of 'chabutra' around 'Neem' and 'Barr' trees. That the bill generated for purchase of 4000 bricks for the above mentioned construction work was also forged and fabricated because the 'chabutra' was already in existence for the last so many years. That the sarpanch also made an entry in the records in the sum of Rs. 80,000/- regarding purchase of dustbins for the village but not even a single dustbin has been placed in the village. Similarly, the amount of Rs. 39,121/- had been shown as spent for

installing two handpumps, whereas, the amount is very high as compared to actual installation charges.

Trial Court Proceedings

3. In preliminary evidence, the complainant got examined eight witnesses and tendered documents. Thereafter, the complainant closed the preliminary evidence vide his separate statement dated 05.12.2015. The arguments on the point of summoning of the accused was heard. Subsequently, vide order dated 09.02.2016, the learned trial Judge made a summoning order upon the accused, to face trial for the commission of offences punishable under Sections 409, 420, 468 and 471 of the IPC. Accused Hanumant surrendered before the Court and was admitted to bail vide order dated 10.03.2016.

4. In order to prove his case, the complainant examined eight witnesses in pre-charge evidence and thereafter, the complainant closed his pre-charge evidence vide his statement made on 22.05.2018.

5. The learned trial Judge concerned, after hearing the learned counsel for the complainant, and, also after hearing the learned defence counsel, besides after perusing the documents, as, appended by the complainant, came to a prima facie conclusion, that the accused was amenable for his being tried for offences punishable under Sections 409, 420, 468, 471 of the IPC. Resultantly, the learned trial Judge concerned, drew a charge against the accused, for the offences punishable under Sections 409, 420, 468, 471 of the IPC. However, the accused did not plead guilty to the above drawn charge, and, rather claimed trial.

6. Thereafter, the complainant led post charge evidence by re-examining the witnesses who were earlier examined in at the pre-charge

stage. The complainant closed his post charge evidence vide order dated 20.10.2018.

7. After the closure of the post charge evidence by the complainant, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. He also chose to adduce defence evidence, and, in order to prove his defence, the accused examined twelve witnesses.

Inferences drawn by this Court

8. A perusal of the records of the case of the learned trial Judge concerned, reveals that the accused has successfully proven his defence, that through validly made resolutions, the public works concerned were completed in the village. If so, unless evidence became adduced that the quality of work was deficient, or, there was an under spending of amount as allotted for the relevant purpose, hence by the respondent concerned, thereupon, the allegations about the accused embezzling public funds would become rendered completely misfounded. Conspicuously so, when no evidence, comprised in the report of an authorized valuer who made valuations qua the works done, rather has been placed on record, nor, when any apposite audit report has been adduced into evidence by the complainant.

9. Be that as it may, since evidently the originals of the muster rolls concerned, were never shown to the workmen concerned, whose signatures were allegedly forged. Therefore, as aptly concluded by the learned trial Judge concerned, there was no occasion for apt comparisons of the purportedly forged signatures of the workmen concerned, as made on

the muster rolls concerned, or, on the receipts, hence relating to the

disbursement(s) of payments, to them, rather being made with the standard admitted signatures of the workmen concerned. Resultantly when the above collections were not made nor were transmitted to the handwriting concerned, nor any opinion was made thereons. Thus, the allegations of forgery of records of the panchayat, are to be concluded to be not cogently established.

10. Moreover, when the affidavits purportedly sworn by the workmen concerned, revealing the commission of the complaint offences, have also been deposed by them to be not prepared at their instance, rather when they deposed that they are not even conversant with the contents carried therein. Therefore, the affidavits as purportedly sworn by the workmen concerned, in support of the allegations made in the complaint rather do not establish the charge drawn against the accused. Emphatically when all the deponents concerned, further depose that the entire developmental works have been completed in the Panchayat concerned, as such, the allegations of forgery of documents, as well as, allegations of embezzlement of public funds rather become completely belied.

Final order

11. Consequently, for the reasons assigned hereinabove, this Court finds no reason to interfere with the impugned verdict of acquittal, as made by the learned trial Court concerned. Thus, leave to appeal against the verdict of acquittal, as made on 20.08.2019, upon complaint case COMI/40/2015, by the learned Sub Divisional Judicial Magistrate, Kosli, is declined, and, the application, seeking leave to appeal, is hereby dismissed.

The impugned verdict of acquittal, as made by the learned trial Court, is maintained, and, affirmed. The case property, if any, be dealt with, in

accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

12. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

November 21, 2022
kavneet singh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes