

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-A-324-2020 (O&M)
Date of Decision: 14.09.2023

Nirmal Singh

...Applicant

Vs.

Anjit Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vikas Gupta, Advocate
for the applicant.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

CRM 5389 of 2020

1. The applicant has filed the present application under Section 5 of the Limitation Act for condonation of delay of 3 days in filing application for special leave to appeal.

2. I have heard the learned counsel for the applicant and perused the record.

3. For the reasons mentioned in the application, the delay of 3 days in filing the application for special leave to appeal is ordered to be condoned.

CRM-A-324-2020

1. The applicant/appellant has filed the present application under Section 378(4) Cr.P.C. with a prayer to grant special leave to

appeal against the impugned judgment dated 27.11.2019 passed by Judicial Magistrate 1st Class, Patti, whereby, the respondents were ordered to be acquitted of the charge.

2. As per the case of the prosecution, the applicant/complainant was an agriculturist and had one younger brother, namely, Maghar Singh and two sisters. His younger brother was residing with him in his village. His father Sham Singh died on 15.02.2013 and Sewa Singh his Taya (elder brother of father) used to reside with the family of the applicant and he had died issueless and without a widow on 15.11.1998 in the house of the applicant. During his life time, Sewa Singh was served by the family of the applicant and even the applicant had performed last rites of Sewa Singh. Sham Singh and Sewa Singh were joint owners of the land measuring 7 marlas and had purchased the same from Hazara Singh son of Lachhman Singh. Sewa Singh and Sham Singh had given ½ share measuring 3.50 marlas to respondent No. 1 for sowing fodder for the cattle, but the respondent No. 1/accused had forged and fabricated an agreement dated 30.09.1998 regarding the exchange of land measuring 3.5 marlas owned by Sewa Singh. Further, in connivance with respondent No. 2, the respondent No. 1 got a mutation No. 2407 dated 01.01.2010 sanctioned regarding the above said land 3.50 marlas owned by Sewa Singh on the basis of the forged and fabricated

agreement dated 30.09.1998. A complaint was moved to the SSP on 02.08.2014 and it was recommended that a criminal case may be registered in the present case but the police did not take any action and the applicant had to file a criminal complaint.

3. I have heard learned counsel for the applicant and perused the record.

4. Learned counsel for the applicant submitted that the trial Court had committed an error by not appreciating the fact that the applicant was successful in establishing the guilt of the respondents. Still further, there was ample evidence to show that the agreement dated 30.09.1998 was forged and fabricated and mutation was wrongly sanctioned on the strength of the said agreement. Learned counsel further submitted that the trial Court committed grave error in believing the version of the respondents that 3.5 marlas of land was exchanged with the respondent No. 1 legally. Still further, it has been wrongly observed that the applicant had the remedies before the civil Court. Apart from that, respondents had not examined any witness of the agreement dated 30.09.1998. I have heard learned counsel for the applicant and perused the record in this regard. The primary allegation levelled by the applicant in the present case is with regard to the forgery of the agreement dated 30.09.1998 but surprisingly, the applicant led no evidence at all to show that the agreement dated

30.09.1998 in favour of respondent No.1, was forged and fabricated by him in connivance with respondent No. 2. No evidence has been led on record to show that the agreement dated 30.09.1998 was not executed by Sewa Singh in favour of respondent No. 1. Rather respondents had led sufficient evidence to show that the agreement dated 30.09.1998 was duly executed by Sewa Singh. Apart from that, it was also apparent from the said agreement that even Ajit Singh respondent No. 1 had given land measuring 3.50 marlas out of Khasra No. 239 of Sewa Singh and in exchange of the said land, Sewa Singh had given his 3.50 marlas of land in Khasra No. 241 to Ajit Singh, respondent No. 1. Thus, it is evident that there was an exchange of land between Sewa Singh and respondent No. 1 and if at all, the applicant was aggrieved of the same, he had the liberty to challenge the same before the Civil Court. However, instead of availing his civil remedies for correction of revenue records, the applicant chose to file a criminal complaint wrongly. Even otherwise, I have gone through the findings recorded by the trial Court and there is no illegality, irregularity and perversity in the impugned judgment dated 27.11.2019 passed by the Judicial Magistrate 1st Class, Patti passed by the trial Court.

6. Thus, finding no merits, the application for special leave to appeal is dismissed.

- 7. Pending application(s), if any, is also disposed off.
- 8. Case property, if any, be dealt with, and, destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

14.09.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No