

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

207

CRM-A-1215-MA-2016
Date of Decision : August 02, 2023

MUKHTIAR SINGH(DECEASED THROUGH HIS LR)

.....Petitioner

VERSUS

SHER SINGH AND ORS

.....Respondents

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

Present : Mr. Mohit Kumar, Advocate and
Mr. Gaganpreet S. Aujla, Advocate
for the applicant.

SURESHWAR THAKUR. J.(Oral)

1. The application bearing No.CRM-A-1215-MA-2016 seeking leave to appeal is moved before this Court, thus to challenge the verdict of acquittal, as became passed by the learned Judicial Magistrate 1st Class, Amritsar upon case No.415/2015.
2. The complainant had alleged that three sale-deeds drawn on 6.11.2006 were forged. Therefore, the best evidence to succour the above allegation in the complaint, became comprised in the complainant initially making a contest or a denial, to his thumb impressions, as were existing over the disputed sale-deeds. However, it appears on a reading of the record, that the complainant omitted to make any efficacious denial

about the existence of his thumb impressions, as became carried on the disputed sale-deeds. Therefore, there was no occasion for the learned trial Judge concerned, to make an order for sending the disputed thumb impressions of the complainant, as existing on the disputed sale-deeds, thus for their comparisons with the admitted thumb impressions of the complainant. In consequence, but obviously the best evidence in respect of the thumb impressions of the complainant, as were existing on the disputed sale-deeds, thus being forged at the instance of the accused concerned, rather obviously did not emerge. In consequence, the complainant cannot in the application for leave to appeal claim, that as such there was cogent evidence existing on record, thus disclosing that the thumb impressions, as existing on the disputed sale-deeds rather were forged, and/or were not belonging to him.

3. The complainant had also alleged in the complaint, that he was locked in a room by the accused, thus with an intention to kill him. He further states that he had sent a message to his elder daughter Balwinder Kaur, who was married at village Hardo Rawal, and, that she obtained warrants under Section 97 Cr.P.C. from SDM, Dera Baba Nanak, and, the executing officer had ensured the recovery of the complainant from the room where he was locked by the accused. However, the said averment of the complainant, is not supported, by Balwinder Kaur inasmuch as, in her cross-examination, though she deposed that she had obtained the said search warrants from the Court of SDM, Dera Baba Nanak in the month of April, 2007, and, thereby the

officer/official concerned, has ensured her father being released from the room where he was locked by the accused. However, the above mere speaking by Balwinder Kaur in her cross-examination, is not the best evidence, in respect of the search warrants, becoming obtained from the jurisdictionally competent Court nor is the best evidence, that thereby the executing official concerned, had secured the release of the complainant from the room where he was allegedly locked by the accused. Contrarily, the best evidence in that regard was the placing on record by the complainant of the certified copy of the warrants (Supra), and, or his ensuring the citing as complainant's witness, hence of the executing official concerned, or the Ahlmad of the Court concerned, in whose custody the search warrants were kept. However, the best evidence (supra), thus for securing corroboration to the above made averment, in the complaint rather is completely amiss. Therefore, the abovesaid averment also remains unsubstantiated.

4. 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 1.3.2016, upon, complaint No.415/2015 dated 25.9.2007, by the learned Judicial Magistrate concerned, is declined, thus, 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. Personal, and, surety bonds, if any, furnished by the accused concerned,are ordered to be forthwith cancelled, and, discharged.

5. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

August 02, 2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No