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(244) IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR-1439-2019

Date of Decision: 20.04.2023

KULDEEP KAUR

... Petitioner

Versus

STATE OF PUNJAB & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Kiranpreet Kaur, Amicus Curiae  
for the petitioner.

Ms. Ramta K. Chaudhary, DAG, Punjab.

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JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment dated 07.12.2018 passed by the Additional Sessions Judge, SAS Nagar, Mohali, whereby the appeal filed against the judgment of acquittal dated 23.02.2018 passed by the Sub Divisional Magistrate, Kharar, has been upheld.

2. The prosecution case is that on 17.09.2015 ASI Deep Singh along with the other police official was present for patrolling in search of bad elements at bus stand Kharar, where Kuldeep Kaur came present along with her daughter-in-law and son-in-law Gurmukh Singh and recorded her statement to the effect that she was a widow and her only son Ranjit Singh was residing at Italy. She (complainant) was residing at village Nanherian with her daughter-in-law Manjit Kaur and her children at their house. The said house was in the name of her son Ranjit Singh. Her grandson and grand-daughters were studying and her daughter-in-law Manjit Kaur was a housewife. Dalwinder Singh @ Baba and Randhir Singh usually came to

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their house as Ranjit Singh was their relative. On one day when her grand son was ill, Dalwinder Singh came to their residential house and threatened them by saying that if they did not give their residential house for the purpose of a Dera, then her grandson would die. Then Dalwinder Singh took her to Tehsil Kharar and took her thumb impression on some blank papers and prepared an agreement to sell and started the Dera. Dalwinder Singh started residing in one room of the house but he took the possession of the entire house and many co-villagers and persons visited their house to meet Baba Dalwinder Singh. He also told her (complainant) that he would construct a house for her family on the land which was situated outside the village and they believed him. He started the construction work on the said land which was situated outside the village. However, he did not complete the construction of the house and used low quality material for constructing the same. On 25.08.2014 Dalwinder Singh, Narinder Singh and Karnail Singh in connivance with each other took her to tehsil Kharar and prepared a document at tehsil kharar for their house, in which Karnail Singh numberdar and Narinder Singh put their signatures. She (complainant), called her daughter- in-law on her telephone to come to Tehsil Kharar regarding the said document. Then, her (complainant's) daughter-in-law immediately came to tehsil complex Kharar and read the document which was related to their residential house. In the said document the above said persons had written that she (complainant) had agreed to execute the sale deed in the name of Dera and the day for execution of the sale deed was 30.09.2014 when her (complainant's) daughter-in-law told her (complainant) regarding the

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contents of the document and then she (complainant) refused to sign the same. The accused persons taking advantage of her old age and illiteracy and to grab the property of her son which is not in her name cheated them and used low quality material for the construction of the house.

3. On the basis of the above allegations, a formal FIR No. 183 Dated 17.09.2015, Under section 420, 448, 120-B of IPC was lodged in the P.S. Sadar Kharar, against the accused. During Police investigation, statements of the witnesses were recorded under section 161 of Cr.P.C. and the challan came to be presented. Upon appearance in the Court, the accused was supplied with the copies of the challan and other prosecution documents free of costs in compliance with the mandatory provisions of Section 207 of Cr.P.C.

4. On the basis of the Police Challan and the other documents, finding prima facie case against the above named accused, they were charge sheeted on dated 10.08.2016, for offences under Section 120-B, section 420, 448 read with section 120-B of the IPC. The charge was read over and explained to the above named accused persons, to which, they pleaded not guilty and claimed trial.

5. The prosecution evidence was lead comprising of the depositions of PW1 Kulwinder Kaur, PW2 Manjit Kaur, PW3 Gurmukh Singh, PW4 the complainant Kuldeep Kaur, PW5 HC Mohan Lal No.634/SAS Nagar, P.S. City Kharar, PW6 HC Harwinder Singh No.295/SAS Nagar, P.S. City Kharar, PW7 Gurinder Singh Halqa Patwari, Village Jhingna circle, Kanungo Kurali, PW8 Inspector Balram Rana

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No.1409/PAP, Police Line Mohali, PW9 the I.O./ASI Deep Singh No.140/FGS, PW10 Ravinder Singh, PW11 Shivani Chadha, Stamp Vendor, Tehsil complex, Kharar, Ex.PW12 Jagjit Singh, Jr. Technical assistant, Addl. Registrar of Society, Mohali. The documents relied upon by the prosecution were Ex.PW4/A, application moved by the complainant to SHO, Kharar, Ex.PW4/B, the statement of complainant to the police, Ex.PW4/C the original agreement to sell dated 25.08.2014, Ex.PW5/A, arrest memo of Dalwinder Singh, Ex.PW5/B, his personal search memo, Ex. PW6/A & Ex.PW6/B arrest memos of accused Narinder Singh @ Laddi and Karnail Singh, Ex.PW6/C & Ex.PW6/D their personal search memos, Ex.PW8/A the police report, Ex.PW9/A ruqa, Ex.PW9/B the FIR and Ex.PW12/A a copy of the registration certificate of the society. Thereafter, the APP closed the prosecution evidence vide statement dated 16.01.2018.

6. The statements of the accused were recorded under section 313 Cr.P.C. wherein the accused were confronted with the entire incriminating factors oral as well as documentary. The accused persons completely denied, the allegations. They stated that they had been falsely implicated by the complainant in the case. In defence, the accused produced the certified copy of the case titled as “Ranjit Singh Vs. Dalwinder Singh & Ors.” as Ex.D1 and certified copy of plaint case titled as “Manjit Kaur Vs. Dalwinder Singh & Ors.” as Ex.D2. Therefore, the accused closed their defence evidence vide joint statement dated 23.02.2018.

7. Based on the evidence led, the accused were acquitted by the Court of the Sub Divisional Judicial Magistrate, Kharar vide judgment dated

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23.02.2018. Against the said judgment of acquittal, the petitioner/complainant preferred an appeal before the Court of the Additional Sessions Judge, SAS Nagar, Mohali and the same came to be dismissed vide judgment dated 07.12.2018.

The State as also the complainant filed two criminal appeals bearing Nos.29 of 07.05.2018 and 06 of 07.04.2018, which came to be dismissed vide common judgment dated 07.12.2018 passed by Additional Sessions Judge, SAS Nagar, Mohali.

8. The aforementioned judgments are under challenge in the present case.

9. The learned Amicus Curiae for the petitioner contends that the Courts below have not considered the deposition and cross-examination of the witnesses in their proper perspective. Minor discrepancies and contradictions have been given undue importance. The prosecution evidence led including the documents exhibited clearly established the commission of the offence for which the respondent/accused were liable to be convicted. In fact, the case had been established beyond any reasonable doubt whatsoever.

10. I have heard the learned Amicus curiae for the petitioner.

11. A perusal of the record would reveal that there is no evidence that Ranjit Singh, son of the complainant was the owner of the property in question. There is also no evidence on record to substantiate the prosecution version that the house in question had not been properly constructed or that bad quality material had been used for the purposes of the construction. There was also no evidence of a Dera being run from the said premises as is sought to be made out by the complainant. Further, there is no evidence whatsoever of any forcible

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dispossession of the complainant party from the house in question at the instance of the accused. In fact, there is absolutely no independent corroboration of the prosecution version.

12. In view of the aforementioned discussion, I find no reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Hence this revision petition is dismissed.

(JASJIT SINGH BEDI)  
JUDGE

20.04.2023

JITESH

Whether speaking/reasoned:- Yes/No  
Whether reportable:- Yes/No