

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

227

CRR-2730-2014 (O&M)
Date of decision: 28.02.2023

Rattan Kaur

.....Petitioner

Versus

Satinder Kaur and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dinesh Nagar, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the judgment and order dated 17.01.2013 passed by learned Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar in case FIR No.50 dated 29.03.2007 under Section 471 of the IPC registered at Police Station City Nawanshahr whereby respondent No.1-Satinder Kaur was acquitted of the charges framed against her and the order dated 06.05.2014 whereby the appeal preferred by the petitioner to impugn the judgment and order dated 17.01.2013 was dismissed by the learned Sessions Judge, SBS Nagar.

Learned counsel for the petitioner *inter alia* contends that even though there was overwhelming evidence led by the prosecution to bring home the guilt of the the respondent No.1-accused, it was erroneously ignored by the Courts below while passing the impugned judgment and order. While drawing the attention of this Court to a letter, Ex.PW5/D, written by the Indian Embassy at Muscat, learned counsel has contended that the Deputy Commissioner, Nawanshahr had been asked to take action against respondent No.1-accused Satinder

Kaur, for having sold off the share of her husband Balwant Singh, in some landed properties, by forging a General Power of Attorney (Ex.PW5/C) in her name, however, this vital piece of evidence was discarded by the Courts below by holding that it was just a photocopy and had not been proved in accordance with law. It was further argued that the Courts below misread the evidence on record by holding that the respondent No.1-accused had come to India on 20.04.2006 from Muscat and never returned back and hence she could not have fabricated and forged the General Power of Attorney (Ex.PW5/C) of her husband Balwant Singh on 25.06.2006 at Muscat.

I have heard learned counsel and perused the relevant material on record.

As per allegations levelled in the complaint by the petitioner, her son Balwant Singh, who was a Non-Resident Indian, did not have cordial relations with his wife i.e. respondent No.1-accused. Both her son and respondent No.1 were co-owners of some properties in India. On the basis of a forged General Power of Attorney, purportedly executed by deceased Balwant Singh, respondent No.1-accused fraudulently sold away the share of her husband Balwant Singh. No doubt, a great deal of reliance was placed on letter Ex.PW5/D by the prosecution, however, being a photocopy, since it was not proved in accordance with the provisions of the Indian Evidence Act, the Court below rightly discarded it because neither the maker of letter Ex.PW5/D was examined nor any step taken by the investigating agency to prove its genuineness which was all the more incumbent as the original copy was not produced during trial. Still

further, though on the one hand, it was asserted that the relations between deceased Balwant Singh and his wife were strained and the General Power of Attorney (Ex.PW5/C) had been fabricated and forged by the latter, however, it fails to appeal to reason as to why Balwant Singh during his lifetime chose to keep mum and did not report against respondent No.1 accused of having fabricated his General Power of Attorney and on the basis of the same having sold off his share vide sale deed, Ex.PW5/B.

As per the admitted case of the complainant herself, firstly she was not the owner of the property which had been sold by respondent No.1-accused and secondly her son had also visited India after the execution of sale deed, Ex.PW5/B. However, for reasons very strange Balwant Singh chose not to even register any complaint against his wife qua the forgery committed. It is also a matter of record that the accused came to India on 20.04.2006 whereas the power of attorney (Ex.PW5/C) was executed by deceased Balwant Singh on 25.06.2006 in favour of the accused.

As a sequel to the above, this Court has no hesitation in holding that both the Courts below rightly acquitted the accused by giving her the benefit of doubt.

Accordingly, the instant leave to appeal being devoid of any merit is dismissed.

28.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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