

251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-31659-2019 in/&
CRR-2672-2019
Decided on : 09.08.2023

Charan Dass

..... Petitioner

Versus

Raj Kumar and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jagpal Singh, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CRM-31659-2019

Application is allowed as prayed for and the delay of 443 days in filing the petition is condoned.

Main case

Instant petition has been filed by the petitioner impugning the order dated 19.03.2018 passed by JMIC, Dera Bassi vide which the respondents were discharged for commission of offences under Sections 420, 465, 467, 468 and 471 IPC in a complaint instituted by him.

2. As per the allegations levelled in the complaint in question, the petitioner (hereinafter referred to as 'complainant') was a member of Harijan Society Ltd., Batouli, Tehsil Dera Bassi (hereinafter referred to as 'Society'). The Society comprised of 35 members, who were cultivating 257 Bigha and 16 Biswa of land, which was in the name of the Society. Each of the 35

members of the Society had been given 7 Bighas of land. The father of the complainant Kehar Singh had been a member of the Society from its very inception. As per the instructions issued by the Government of Punjab, no member of the Society could sell the land of the Society and every member during his lifetime could appoint his nominee, who would get membership of the Society on the death of the original member. On 13.02.1969, the complainant was appointed by his father as his nominee. When the father of the complainant died on 24.01.2000, the complainant became a member of the Society.

Raj Kumar- respondent No.1, brother of the complainant, along with respondents No.2 and 3 after conniving with each other forged the Will of Kehar Singh, father of the complainant, and thereafter mortgaged the land of the Society, which had devolved upon the complainant upon the death of his father, in favour of one Sajjan Singh - respondent No.4, who in turn mortgaged the land to one Bant Singh. Respondent No.4 gave Rs.80,000/- to respondent No.1 at the time of mortgage of land in question. It was also alleged in the complaint that all the accused had connived with each other by playing fraud upon the complainant. Not only this, the police had obtained the signatures of the complainant on a number of papers so that he could not lodge any FIR against the accused persons. Thereafter, the complainant collected inquiry report under Right to Information Act, 2005.

3. Learned counsel while drawing the attention of this Court to the

impugned order has vehemently argued that the Court below erred in observing that prosecution had failed to prove the commission of offences alleged. Learned counsel submits that the observations made by the trial court were perverse as it had failed to appreciate the evidence, which had been adduced by the complainant before it. It has also been submitted that Kundan Ram, cashier of the Society, while stepping into the witness box as CW-2 had supported the case of the complainant to the effect that Kehar Singh during his life-time had nominated the complainant as his successor. On 31.01.2009, a resolution Ex.C-2/B was passed and the complainant was appointed as a member of the Society and thereafter his name was incorporated in the list of members. Besides this, learned counsel has reiterated the allegations levelled in the complaint in question and prayed for setting aside the impugned judgment dated 19.03.2018.

4. Heard learned counsel and perused the relevant material on record.

5. It is the specific case of the complainant that his brother i.e. respondent No.1 in connivance with other co-accused forged the Will of his father Kehar Singh. Thereafter on the basis of the forged Will, he took possession of 7 Biswa of land, which in turn was illegally mortgaged with respondent No.4 Sajjan Singh as the owner of the land was Society and only its members could cultivate the same. However, it is a matter of record that the original Will of Kehar Singh, which had been allegedly forged by respondent No.1, was never produced by the complainant before the trial

court. The entire thrust of allegations levelled by the petitioner rests on forgery of the Will in question. However, in the absence of the original Will, charge of forgery could not be proved and *prima facie*, no case was thus, made out for commission of offences alleged. As far as other documents produced by petitioner are concerned, only one agreement/pronote Mark CD was produced by the complainant, which showed that it had been executed by respondent No.1 in favour of respondent No.4 with respect to the execution of a separate pronote Mark 'CE' vide which respondent No.1 had received Rs.80,000/- from respondent No.4 Sajjan Singh in exchange of mortgage of 4 Bighas of land in his favour. Still further, strangely, neither the description of the land was mentioned in the agreement nor was there any mention of the ownership of the land vesting in Harijan Cooperative Society, Batouli. Even CW-2 Kundan Ram while stepping into the witness box had admitted that the petitioner was the not the owner of the land in question but merely a member of the society.

6. In the circumstances, this Court does not find any illegality much less perversity in the impugned order dated 19.03.2018 passed by the Court below.

7. Accordingly, the present petition being devoid of any merit stands dismissed.

09.08.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No