

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

CRM-A-2722-MA-2018
Reserved on: 14.02.2022
Date of decision: 21.02.2023

HARBANS SINGH

...Appellant

Versus

MALKIT KAUR AND OTHERS

...Respondents

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

Present: Mr. Deepak Aggarwal, Advocate
for the appellant.

Mr. Naveen Kumar Kuhad, Advocate for
Mr. P.K.S. Phoolka, Advocate
for the respondents.

SURESHWAR THAKUR, J.

1. The instant application is directed by the complainant one Harbans Singh against the verdict of acquittal, recorded by the learned Judicial Magistrate Ist Class, Phul, on 16.02.2017, upon Complaint No.51 of 11.12.2012.
2. The gravamen of the allegations made against the accused, in the complaint (supra), are that, in excess of the apposite transfer deed but on the basis of a purportedly forged and fabricated transfer deed, the Halka Patwari Kothaguru rather sanctioning mutation No.3586, hence purportedly untenably covering also the land owned, and, possessed by the complainant. Moreover, it was also averred in the complaint, that the Tehsildar, concerned, who though sanctioned the mutation, only for land measuring 50 kanals 1½ marlas, but the accused in connivance with the Patwari, in excess of the apposite order of mutation, as made by the Tehsildar rather ensured that a further area owned by

the complainant measuring about 18 kanals 18 marlas being entered in the order of mutation.

3. The learned trial Judge after considering the entire evidence, as became adduced before him, made an order of acquittal qua the accused. A reading of the discussion, as occurs in the impugned order, reveals that there is no dispute with respect to the execution of a transfer deed *inter-se* the complainant, and, the accused. Significantly, also the transfer deed, drawn on 19.11.2004 *inter-se* the complainant, and, the accused carries thereons, even the signatures of the complainant, signatures whereof have not been proven to be forged or fictitious, through adduction of the best evidence, as, comprised in the apposite report of the Handwriting Expert concerned. Therefore, obviously the allegations made in the complaint, that on the transfer deed of 19.11.2004 occurred the forged signatures of the complainant one Harbans Singh rather remain completely unsubstantiated.

4. Moreover, even the complainant in his cross-examination, admitted that mutation No.3586 was sanctioned on the basis of rapat No.229 of 15.11.2005. He has even admitted that he had not filed any appeal against the drawing of the said mutation rather before the Revenue Officer concerned. He has even subsequently deposed that the excess land measuring about 18 kanals 18 marlas was written in rapat No.229 of 15.11.2005, but yet was so scribed, on the basis of transfer deed which was executed between him and the accused, whereafter, he has admitted in his cross-examination, that the duo of mutations to which respectively became assigned mutation No.3586 and No.18433, have been sanctioned on the basis of report No.229, drawn on 15.11.2005. Since the applicant has prior thereto admitted that the said rapat number was drawn on the basis of a validly executed transfer deed *inter-se* him and the accused.

Therefore, the effect of the above admissions as occur in the cross-examination of the complainant, are that, the above made allegations in the complaint did remain uncompletely substantiated.

FINAL ORDER

5. In the face of the above, this Court finds no merit in the application asking for special leave being granted to the complainant to appeal against the verdict of acquittal (supra), as became recorded by the learned Judicial Magistrate, Ist Class concerned, upon complaint bearing No. 51 of 11.12.2012. Therefore, the instant application is dismissed, and, the impugned verdict of acquittal is affirmed, and, maintained.

6. Records be sent down forthwith.

(SURESHWAR THAKUR)
JUDGE

21.02.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No