



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

CRM-A-1805-2019(O&M)

Date of Decision:-17.09.2024

Satish

.....Appellant.

Vs.

Bhagat Singh & Anr

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Sumit Sangwan, Advocate for the Appellant.

None for the respondent.

JASJIT SINGH BEDI, J.

The present application under Section 378(4) of Cr.PC has been filed for grant of leave to appeal against the judgment of acquittal dated 12.11.2018 passed by Judicial Magistrate Ist Class, Charkhi Dadri.

2. It is the case of complainant that the accused in collusion with each other altered/tempered the Bahi writing dated 15.05.2010 (Ex.C1 copy of bahi writing) by adding new lines with regard to the money to be paid in the month of kartik. The accused forged the said writing for extending the period of limitation. On the basis of said forged Bahi writing dated 15.05.2010, the accused filed a suit for recovery against the complainant. The complainant got examined the said Bahi writing from the Handwriting Expert FSL Madhuban, who opined that the bahi writing was tempered by adding new lines (Ex.C2 and Ex.C3 copy of report). The said suit filed by



accused against the complainant was dismissed by the learned Trial Court vide judgment and decree dated 29.01.2016 (Ex.C6 copy of judgment). The appeal filed against the said judgment was also dismissed vide judgment and decree dated 20.09.2016 (Ex.C8 copy of judgment). Hence, the complaint.

3. On the basis of preliminary evidence, the accused were ordered to be summoned to face trial for the commission of offence punishable under Sections 420, 467, 468, 471 and 120-B of IPC vide order dated 26.02.2016.

4. Pre-charge evidence: CW-1 Satish complainant deposed the facts of his complaint. The complainant also tendered documents Ex.C1 to Ex.C9. Thereafter, the complainant closed pre-charge evidence on 21.08.2018.

5. From the pre-charge evidence, a prima facie case for commission of offence punishable under Sections 420, 467, 468, 471 and 120-B of IPC was made out against the accused. They were charge-sheeted accordingly vide order dated 18.09.2018, to which the accused pleaded not guilty and claimed trial. In after-charge evidence, complainant and accused have not opted to examine any witness vide order dated 18.09.2018.

6. Statements of the accused were recorded under Section 313 of Cr.P.C. to which they pleaded innocence and false implication in the present case. Accused closed defence evidence after tendering document Ex.D1.

7. Based on the evidence led the respondents/accused were acquitted by the court of Judicial Magistrate Ist Class, Charkhi Dadri vide judgment dated 12.11.2018.

8. It is the aforementioned judgment which is under challenge in the present case.

9. The Counsel for the appellant/complainant contends that the Trial Court had adopted a hyper technical approach by referring to Section



293 Cr.PC to hold that the report issued by the handwriting expert was not per se admissible as the prosecution was unable to examine the said expert. The Civil Court had given a finding on the issue of the forgery of the document in question which was binding on the criminal court. He thus contends that leave be granted to file an appeal against the acquittal of the respondents/accused.

10. We have heard counsel for the appellant and have gone through the lower Court record.

11. The main contention of the appellant/complainant is that judgment of the Civil Court is binding on the Criminal Court. In the judgment dated 29.01.2016 (Ex.C6) passed the learned Trial Court, the bahi writing dated 15.05.2010 was considered to be tempered/alterd. The appeal filed against the said judgment was also dismissed vide judgment and decree dated 20.09.2016 (Ex.C8). The accused filed a Regular Second Appeal before this Court (Ex.D1). Be that as it may, the law is well settled that the findings of fact recorded by the Civil Court do not have any bearing so far as the criminal case is concerned and vice-versa. The standard of proof is different in civil and criminal cases. In civil cases it is preponderance of probabilities while in criminal cases it is proof beyond reasonable doubt. In ***Kishan Singh (D) through L.Rs. Vs. Gurpal Singh & Ors., 2010(4) R.C.R. (Criminal) 74***, the Hon'ble Supreme Court held that:

"19. Thus, in view of the above, the law on the issue stands crystallized to the effect that the findings of fact recorded by the Civil Court do not have any bearing so far as the criminal case is concerned and vice-versa. Standard of proof is different in civil and criminal cases. In civil cases it is preponderance of probabilities while in criminal cases it is



proof beyond reasonable doubt. *There is neither any statutory nor any legal principle that findings recorded by the court either in civil or criminal proceedings shall be binding between the same parties while dealing with the same subject matter and both the cases have to be decided on the basis of the evidence adduced therein. However, there may be cases where the provisions Sections 41 to 43 of the Indian Evidence Act, 1872, dealing with the relevance of previous Judgments in subsequent cases may be taken into consideration."*

12. The whole case of the complainant prosecution is based on the opinion of Handwriting Expert (Ex.C2 and Ex.C3). As per Ex.C3 report, the Handwriting Expert has given the following opinion "*In consideration to the above noted observations, I am of the opinion that the complete body writing of Bahi entry dated 15.05.2010 is not writing with one and the same writing instrument of same ink at one time.*"

13. Importantly, the report issued by the Handwriting Expert does not fall within the purview of Section 293 Criminal Procedure Code. The report issued by Handwriting Expert is not per-se admissible under Section 293 Criminal Procedure Code. The prosecution failed to examine the Handwriting Expert. The accused also did not get the opportunity to cross-examine the said witness.

14. Even otherwise, the expert evidence as to handwriting is only opinion evidence and it can never be conclusive. The sole evidence of a handwriting expert is not sufficient. It is unsafe to base a conviction solely on expert opinion without substantial corroboration. This type of evidence, being opinion evidence, is by its very nature, weak and cannot itself form the basis for a conviction as has been held in ***Magan Bihari Lal Vs. State of***



Punjab, 1977 AIR (SC) 1091.

15. As to how an appeal against a judgment of acquittal is to be dealt with, the Hon’ble Supreme Court in ***Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427*** has held as under:-

“ 8. While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”

16. In view of the aforementioned discussion and keeping in view the law laid down in ***Kallu @ Masih & Ors. Case (supra)***, we find no reason to interfere with the well reasoned judgment of acquittal passed by the Judicial Magistrate Ist Class, Charkhi Dadri. Therefore, the application seeking grant of leave to appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

September 17, 2024
Vinay

Whether speaking/reasoned	Yes/No
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<i>Whether reportable</i>	<i>Yes/No</i>
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