



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

CRM-A-1620-2019(O&M)

Date of Decision:-05.09.2024

Amita Mehta.

.....Appellant.

Vs.

State of Punjab & Ors.

.....Respondents.

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

Present:- Mr. Veneet Sharma, Advocate for the appellant.

Mr. Kuljit Singh, Addl. Advocate General, Punjab.

Mr. Kushagra Mahajan, Advocate for respondent nos.3, 4 & 6.

Mr. Rajinder Sharma, Advocate for respondent nos.7 to 9

JASJIT SINGH, J.

The present application under Section 378(3) of Cr.PC has been filed for grant of leave to appeal against the judgment of acquittal dated 21.11.2018 passed by Judicial Magistrate Ist Class, Amritsar.

2. The facts of the complaint as stated by the complainant are that land bearing khasra no 51/11/1 min, 51/12, 51/13, 51/19, 51/20 min, 51/22, 64/2/3, 64/3, 64/4, 64/5, 64/8, 63/1, 63/2, 52/3/2, 52/2, 52/6/1, 52/7/1, 52/14, 52/15 and 52/25 was situated in the village Madh Bhilowal tehsil Ajnala district Amritsar and the land was owned by Sh. Vishnu Mehta, Uma Mehta husband and mother in law of the applicant/complainant. The jamabandi and khasra girdawari was also in the name of Surinder Mohan Mehta father in



law of the applicant/ complainant. The respondents/accused Rai Sahib Mehta filed an appeal for the correction of the khasra girdawari which was pending in the court of Deputy commissioner Tarn Taran. A civil suit regarding the land mentioned above was also pending in the court of Sh. Manoj Kumar Civil Judge (Junior Division) Ajnala, in which, the court had granted interim stay in favour of the applicant/ complainant party and against the respondents/ accused Rai Sahib Mehta and his sons. The accused Rai Sahib Mehta and his wife Usha Mehta, sons Sanjeev Rai Mehta, Rajeev Rai Mehta and Kanwar Rai Mehta hatched a criminal conspiracy with the accused Harpreet Singh, Patwari halqa Mudh Bhilowal, accused Bakhshish Singh, Naib Tehsildar and Chander Shekhar clerk of DC office Amritsar to change the revenue record qua the above said land without disclosing the fact that an appeal qua the above said land regarding the correction of khasra girdawari was pending with the Deputy commissioner Tarn Taran. The accused Rai Sahib Mehta in connivance with his wife and sons filed an application with the Deputy Commissioner cum collector Amritsar for issuing direction to the Halqa patwari Mudh Bhilowal for recording the wheat crop as sown by them in the above said khasra number in the village Mudh Bhilowal on 12.01.2009. The accused persons got false and fabricated reports in their favour without any notice to the complainant party in connivance with the Patwari. Accused Rai Sahib Mehta kept the said application for about 9 months in his custody and later on in furtherance of the criminal conspiracy in connivance with the accused Chander Shekhar without any official order from the concerned Deputy Commissioner sent the same of his own by misusing his post in the DC office by signing of his own and handed over the same to Rai Sahib Mehta. The accused Rai Sahib Mehta in connivance with the then Halqa patwari, Harpreet Singh entered



rapat no.84 in the rapat roznamcha on 07.11.2009. The accused Rai Sahib Mehta further filed an application with the Deputy Commissioner Cum collector Amritsar on 04.02.2010 for implementation of rapat number 84 dated 07.11.2009 and accused Harpreet Singh Patwari in connivance with Bakhshish Singh Naib Tehsildar, accused Rai Sahib Mehta and other accused got a rapat no. 182 entered in the revenue record and got changed all the khasra girdwaris coming in the name of the father in law of the complainant, in the name of Usha Kumari, Sanjeev Rai Mehta, Karwar Rai Mehta, Rajeev Rai Mehta without any order from the Deputy Commissioner Amritsar in this regard. The complainant came to know about the forgery and fabrication of the revenue record when she visited the Halqa Patwari for collection of revenue papers on 27.07.2010 and filed an application against the accused person with the Deputy Commissioner Amritsar and later on filed an application with Commissioner Jalandhar Division Jalandhar on 18.08.2010 for taking action against the accused person. The application dated 18.08.2010 bore number 30A/10/3341 dated 18.08.2010. The respectable Commissioner Jalandhar Division Jalandhar marked an inquiry in this regard to Addl. Deputy commissioner Amritsar. The Additional Deputy Commissioner Amritsar had conducted an inquiry into the whole matter and gave his report bearing number ADC/24/ dated 12.01.2011 by concluding that the Patwari halqa was not supposed to put any entry in the roznamcha bearing rapat no. 182 qua the Khasra Girdawari. The Commissioner Jalandhar Division, Jalandhar after receipt of the report of Additional Deputy Commissioner Amritsar had ordered action against Patwari Harpreet Singh, Naib Tehsildar Bakhshish Singh and accused Chander Shekhar and also directed the correction of the revenue record as per the previous entry vide order dated 20.01.2011 bearing number



30A/2011/219. The accused Rai Sahib Mehta and his sons hatched a criminal conspiracy in connivance with each other to save themselves from criminal proceedings pending against them in the court of Manoj Kumar, JMIC Ajnala titled as Vishnu Mehta Vs. Rai Sahib Mehta. Rai Sahib Mehta and his sons produced forged and fabricated record in the application for discharge in the above said proceedings in the court to take undue benefit of the forged and fabricated revenue record in order to save themselves from the conviction. The matter was reported to the police but due to political pressure and influence of the respondents/ accused person, the matter was kept pending and no action was taken. Hence the complainant was left with no alternative but to file the present complaint. The complainant prayed that all the accused be summoned, be tried and punished in accordance with the provisions of law for the offences committed by them.

3. Based on the preliminary evidence, the accused came to be summoned under Sections 420, 467, 465, 468, 120-B IPC vide order dated 03.12.2014.

4. On conclusion of the Trial, the accused/respondent nos.2 to 9 came to be acquitted by the court of Judicial Magistrate Ist Class, Amritsar vide judgment dated 21.11.2018.

5. The learned Counsel for the applicant contends that the judgment of acquittal is based on conjectures and surmises without proper appreciation of the evidence on record. The complainant witnesses had supported the case of the complainant in all material particulars. The forgery of documents were proved in accordance with law. He, therefore, contends that that the impugned judgment was liable to be set aside and the application for seeking grant of leave to appeal ought to be allowed.

6. The Counsel for the respondent nos.3, 4, 6 to 9 at the very



outset states that the respondent nos.2 & 5 have passed away during the pendency of the instant appeal. On merits they contend that the complainant could not establish her case. In fact the Trial Court had rightly come to the conclusion that there was no evidence of cheating or forgery of documents. They, therefore, contend that no fault could be found with the judgment of acquittal and the present application seeking grant of leave to leave was liable to be dismissed.

7. We have heard counsel for the parties and have gone through the lower Court record.

8. In the complaint the accused persons have been charged under sections 420, 465, 467, 468 IPC read with section 120-B IPC. The complainant, to prove the offences was to establish beyond doubt that the accused hatched a criminal conspiracy with each other and got false and fabricated reports in their favour and got entered rapat no. 84 in roznamcha of the revenue record having knowledge that an appeal regarding such change in khasra girdawri was pending in the court of Deputy Commissioner Tarn Taran and got implemented rapat no. 84 of the roznamcha and changed all the Khasra girdawri in the name of accused no. 1 to 5 and committed the offence of cheating and forgery and forgery for the purpose of cheating.

9. To prove her allegations of cheating and forgery the complainant was initially and primarily required to prove that an appeal was pending in the Court of Deputy Commissioner Tarn Taran regarding the correction of the khasra girdawri and during the pendency of the above mentioned application before the Deputy Commissioner Tarn Taran, the accused no.1 had moved an application Ex. CWS/A before the Deputy Commissioner Amritsar for changing the khasra Girdawri regarding the land in the names of accused no. 1 to 5. Such appeal which was alleged to be



pending before the Deputy Commissioner Taran Taran was not proved on record by the complainant to establish that during pendency of the appeal the accused got the khasra Girdawri corrected in their names.

It was only the appeal before the Deputy Commissioner Taran Taran which would have proved the offence of cheating at the hands of the accused and only from the appeal it could have been determined that all the accused hatched a criminal conspiracy with each other to commit forgery and cheating.

Secondly the complainant was also required to establish that a civil suit was also pending between the parties regarding the khasra numbers in dispute and in which interim stay had been granted in their favour by the court of Sh. Manoj Kumar CJJD Ajnala. No date of such order was mentioned by the complainant in his complaint. Such order of interim stay passed by the Court of Sh. Manoj Kumar CJJD Ajnala in favour of the family of the complainant was not placed on the judicial file. However, one order of the Court of Sh. R.K Beri PCS CJJD Ajnala dated 5-11-07 upon an application U/O 39 Rule 1, 2 C.P.C was placed on record as Ex. C9 by the complainant. The order which was exhibited as Ex. C9 pertains only to khasra number 52//16, 52//14, 52//15 and 52/3/2 and is not regarding all the khasra numbers as mentioned in the complaint by the complainant. Further a perusal of the order Ex. C9 showed that injunction against the respondents/accused was only against forcible dispossession of the plaintiffs/family of the complainant from the property in dispute. There was no specific injunction order against the accused that they should not get the khasra Girdawri corrected from the revenue authorities in their names till the final decision of the suit. As the interim stay order of the court of Sh. Manoj Kumar CJJD Ajnala had not been proved by the complainant, so it cannot be



believed that the accused were restrained from getting the khasra girdawari corrected in their name and the offence of cheating is not made out against the accused.

10. In regard to the offence of forgery, the complainant alleged that the accused no. 8 Chander Shekhar in connivance with accused no.1 Rai Sahib Mehta without any official order from the concerned Deputy Commissioner sent the application moved by accused no. 1 of his own by misusing his post in the DC office by signing of his own and handed over the same to Rai Sahib Mehta. These allegations of the complainant that the accused no.8 Chander Shekhar did not have any authority to sign on behalf of the Deputy Commissioner were falsified by the deposition of CW5 in her further cross examination wherein she stated that for the convenience of general public sometimes the officer authorizes the clerk to sign on his behalf in form of "for". Perusal of Ex. D2 which is the letter dated 31- 12- 2010 issued by Deputy Commissioner Amritsar to the Public Information officer shows that it has been explained in the letter that the signatures which were appended by the accused no.8 upon the Ex.CW-5/B were appended upon the oral orders of the concerned officer. Therefore, connivance of accused no. 2,3,4,5 in the commission of the offence as alleged by the complainant is not proved by the complainant. Thus the allegations of forgery by the accused no. 1 in connivance with accused no. 8 are not proved against the accused as the signatures which were appended upon Ex. CW5/B by the accused were appended by him in form of "for" upon the oral orders of the concerned officer.

11. The accused no. 6 and 7 being public officers had done their duty by entering the rapat in the roznamcha as per the orders of the Deputy Commissioner. As, the accused had done their public duty in discharge of



their public functions, so a prior sanction was necessary for prosecuting the accused no. 6 and 7. But no sanction from the state was taken for the prosecution of the accused no.6 and 7. No active connivance of accused no. 6 and 7 with the other co-accused could be established by the complainant. Therefore, the offences against the accused no.6 and 7 were rightly not made out.

12. 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.”

13. 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, Amritsar. Therefore, the application for
seeking grant of leave to appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

September 05, 2024
Vinay

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