



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2933-2018 &
CRR-5073-2018
Date of decision: 04.11.2024

CRR-2933-2018

Gurdeep Singh ...Petitioner
Versus
Satnam Singh ...Respondent

AND

CRR-5073-2018

Gurdeep Singh ...Petitioner
Versus
Gurmukh Singh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

CRM-30832-2018 in CRR-2933-2018

For the reasons mentioned in the application, the same is allowed and delay of 17 days in filing CRR-2933-2018, is condoned.

CRM-44796-2018 in CRR-5073-2018

For the reasons mentioned in the application, the same is allowed and delay of 18 days in filing CRR-5073-2018, is condoned.

CRR-2933-2018 &
CRR-5073-2018

1. This common judgment shall dispose of both the above mentioned cases as they arise from the identical factual matrix.
2. The present revision petition is preferred by petitioner/complainant against the judgment dated 27.04.2018 passed by the



Court learned Additional Sessions Judge, Gurdaspur vide which the judgment of conviction and order of sentence both dated 05.03.2015 passed by the Court of Judicial Magistrate Ist Class, Batala in a criminal complaint No.47 dated 14.03.2009 filed under Sections 420, 467, 468, 471 and 120-B IPC, was set aside and respondent/accused Satnam Singh was acquitted of charges framed against them.

3. CRR-5073-2018 is preferred by petitioner/complainant against the aforesaid judgment dated 27.04.2018 vide which the judgment of conviction and order of sentence both dated 05.03.2015 passed by the Court of Judicial Magistrate Ist Class, Batala in a criminal complaint No.47 dated 14.03.2009 filed under Sections 420, 467, 468, 471 and 120-B IPC, was set aside and respondents/accused Gurmukh Singh and Narinder Singh were acquitted of charges framed against them.

4. The facts of the case in brief are that respondent Gurmukh Singh and petitioner were in joint possession of the land measuring 21 kanals 1 marla out of joint khata having Khasra No.41R/8(1-12),18/2(3-9),23/1(2-0), 23/2(6-0),17(8-0) situated in village Harchowal, Tehsil Batala. The accused persons entered into a conspiracy to grab the entire land of the petitioner. In furtherance to that, Gurmukh Singh executed a false mortgage deed dated 01.06.2000 in favour of Narinder Singh qua land measuring 12 kanals, which includes Khasra No.41R/8(1-12), 4 kanals out of Khasra No.41R/17, 4 kanals out of Khasra No.41R23/1 and 23/2 for a sum of Rs.12,500/- for a period of 19 years. Mutation No.3355 was also sanctioned in favour of aforesaid Narinder Singh who is close relative of Gurmukh Singh. However, entries in the khasra girdawari were not changed on the basis of said mutation. The said entries were in the name of petitioner and Gurmukh Singh till rabbi 2004. Further, Satnam Singh, Halqa Patwari, changed the entries qua the alleged mortgaged land in the name of Narinder Singh, in the *jamabandi* on the basis of the aforesaid false mortgage deed. The said change in the revenue record was incorporated by Satnam Singh in collusion with Gurmukh Singh and Narinder Singh, in an illegal manner. When the petitioner came to know about the aforesaid illegal acts committed by the accused persons, he filed civil suit with regard to land in



question. Separate criminal complaint No.47 of 2009 was also filed by the petitioner against the accused persons.

5. In the said criminal complaint, petitioner led preliminary evidence and stepped into witness box as CW-1 and also examined CW-2 Rajbir Singh, Registration Clerk and CW-3 Rajinder Singh, Patwari. Thereafter, the learned trial Court summoned all the three accused to face trial under Sections 420, 467, 468, 471, 120-B IPC vide order dated 04.05.2012.

6. After the appearance of the accused persons, complainant in his pre-charge evidence examined Maluk Singh, Registration clerk in the office of Joint Sub Registrar, Sub Tehsil Qadian as CW-1 and himself stepped into witness box as CW-2 and also examined Lakhwinder Singh, Girdwar Halqa as CW-3.

7. Finding a *prima facie* case, the learned trial Court framed charges under Section 420, 467, 468, 471 and 120-B IPC against the accused persons to which they pleaded not guilty and claimed trial. In post-charge evidence, accused cross-examined CW-2 complainant Gurdeep Singh and CW-3 Lakhwinder Singh, Girdwar.

8. The entire incriminating evidence was put to the accused persons in their statements recorded under Section 313 Cr.P.C. However, they denied the same and pleaded innocence and false implication. The accused took specific plea that total joint land of the parties is 187 kanal 11 marlas and Gurmukh Singh is having 1/5 share in the joint land which comes out to be 37 kanal 11 marlas, out of which he had sold 5 kanals and mortgaged 24 kanal to his son Navtej Singh and Narinder Singh. That even after the said disposition of land, Gurmukh Singh was still having another 8 kanal of land which is owned and possessed by him. The accused also produced copy of order passed by Assistant Collector, Batala Ex.D-1 and mutation Ex.D-2.

9. After hearing the counsel for the parties, the learned trial Court convicted and sentenced all the three accused under Sections 420, 467, 468, 471 and 120-B IPC vide judgment and order dated 05.03.2015.

10. Being aggrieved, the accused filed two separate appeals. Both



the said appeals were allowed by the Court of Additional Sessions Judge, Gurdaspur and all the accused were acquitted vide judgment dated 27.04.2018.

11. Being aggrieved, the petitioner has filed the present revision petitions.

12. I have heard the counsel for the petitioner.

13. The counsel for the petitioner submits that the accused persons hatched conspiracy to grab the land belonging to the petitioner. In furtherance of their plan, Satnam Singh who at the relevant time was working as a Halqa Patwari, changed the entries in the revenue record on the basis of one false mortgage deed dated 01.06.2000 alleged to be executed by Gurmukh Singh in favour of his son and Narinder Singh. It is further submitted that even mutation No.3355 was illegally sanctioned by the revenue officials at the back of the petitioner. That all these illegal acts amount to cheating and forgery. It is further submitted that the well reasoned judgment and order dated 05.03.2015 passed by the learned trial Court are set aside by the appellate Court in a casual manner without appreciating the evidence available on the record. It is further contended that even if the petitioner has already filed civil suit, the prosecution of the accused persons on the basis of same facts and circumstances is not barred, on the criminal side.

14. It is not disputed that petitioner Gurdeep Singh is real brother of accused Gurmukh Singh. It is also evident that accused Narinder Singh is related to aforesaid Gurmukh Singh, while accused Satnam Singh was Halqa Patwari at the relevant time.

15. The petitioner and accused Gurmukh Singh were recorded as co-sharer in the joint land. The execution of registered mortgage deed by accused Gurmukh Singh in favour of co-accused Narinder Singh dated 01.06.2000 is not disputed by the accused persons before the trial Court. It appears that accused Gurmukh Singh mortgaged specific portion out of joint land in favour of his son and accused Narinder Singh. The mutation on the basis of said mortgage deed was sanctioned by Assistant Collector, Ist Grade, Batala vide Ex.D-1. No doubt, the aforesaid mortgage deed even if



was regarding specific portion out of joint land but it was not beyond the share of accused Gurmukh Singh and thus, could be treated as mortgage with regard to certain share out of the joint land. So, there was no illegality in the said act of execution of mortgage deed. It is also evident that the revenue officials sanctioned mutation on the basis of the said registered mortgage deed. So, it cannot be said that the concerned revenue official while entering the mutation committed any criminal act.

16. Further, there is nothing on the record to indicate that accused Gurmukh Singh executed the aforesaid mortgage deed with malafide intention to cheat the petitioner, by entering into conspiracy with co-accused Narinder Singh and Satnam Singh.

17. Furthermore, this Court is of the considered opinion that the dispute between the parties primarily appears to be of a civil nature and is being given colour of criminal act, as there was no dishonest intention on the part of the accused persons, from the very beginning, to defraud the petitioner. In a case under Section 420 IPC, *mens rea* i.e. intention to defraud should be present, from the very beginning or inception, as has been held by the Hon'ble Supreme Court in ***Delhi Race Club (1940) Limited and others Versus State of Uttar Pradesh and another 2024 INSC 626***.

18. In light of the above discussion, this Court finds no illegality or perversity in the findings recorded by the Court of Additional Sessions Judge, Gurdaspur, in the impugned judgment dated 27.04.2018. Consequently, no ground for interference is made out in the present revision petitions.

19. Hence, both the revision petitions are hereby dismissed being devoid of merits.

20. Pending miscellaneous application(s), if any, also stand disposed of in aforesaid terms.

04.11.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**