

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-585-2024 (O&M)
Date of Decision: 30.04.2024

Manjinder Singh ... Petitioner

VS.

State of Punjab & Ors. ... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Sukhveer Kaur, Advocate for the petitioner

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the judgment/order dated 03.12.2021 passed by JMIC, Gurdaspur and judgment and order dated 02.09.2023 passed by Sessions Judge, Gurdaspur vide which the accused persons have been acquitted as the prosecution has miserably failed to prove its case against them in case FIR No. 7 dated 12.01.2017 under Sections 420/467/468/471/120-B IPC registered at Police Station Tibber.

(2). Briefly stated, on 25.07.2006, the accused persons, namely, Amarjit Singh, Lakhwinder Singh, Harwinder Singh, Piara Singh, in the furtherance of criminal conspiracy dishonestly forged and fabricated agreement dated 25.07.2006 in order to grab the land of petitioner-complainant and also prepared forged and fabricated document dated 25.07.2006 of land measuring 4 marlas and owned and possessed by petitioner-complainant by mentioning the date i.e. 25.07.2014 on agreement to sell and non judicial paper which was valuable security of complainant.

(3). Learned counsel for the petitioner submits that the petitioner-complainant's father Harbhajan Singh had purchased one plot from Mulakh Singh son of Gulab Singh, who in turn had purchased above-said plot from Piara Singh

and Shingara Singh sons of Sadhu Singh resident of village Jhawar, at present resident of Delhi and the said Mulakh Singh sold the above-said plot to his father for consideration of Rs.70000/-, however, the land documents had lost after the death of his father and as such Mulakh Singh had executed a fresh document in his favour and mentioned the area approximately 10 Marlas whereas he was in possession of 14 Marlas.

(4). It is urged that the accused person in the fresh document had written only 10 Marlas in his favour out of the plot of 14 Marlas in the 10 Marlas, there is his house and in the remaining 4 Marlas, he is his Haveli and he had also planted the trees and the accused Harwinder Singh son of Piara Singh had illegally written the document in favour of Amarjit Singh of Kunan Singh for the sale of 4 Marlas from the above-said plot shown to have executed on 25.07.2006. It is contended that on the reverse side of the agreement wherein Sr.No.776 dated 25.07.2014 is mentioned, however, Sr.No.776 in his register for the year 2014 was entered on 29.08.2014 which shows that the agreement (Mark 'A') is fabricated by the beneficiary.

(5). Heard learned counsel for the petitioner and gone through the file.

(6). The main contention of the complainant is that Amolak Singh had sold a plot to his father for the consideration amount of Rs.70,000/- and he gave the possession of the same to his father. It has come on record that from the perusal of the document Ex. PW1/A, nowhere it is mentioned that plot is of 14 marlas besides, Amolak Singh mentioned the area approximately one marla which is Ex. PW1/B and as such the contention of the complainant that plot which was sold by Amolak Singh to his father is of 14 marlas and the document Ex. PW1/A also falsify, casts doubt upon the story of the complainant. Both the Court below

have arrived at a conclusion that the complainant has not been able to establish that he purchased 14 marlas of land and there is no evidence that the agreement dated 25.07.2006 has been set up by the accused persons coupled with the fact that the reverse side of the agreement seems to have been manipulated as the mark ‘A’ placed on record is only the photo copy and the original thereof has not been produced.

(7). It is a settled proposition of law that unless foundation for producing the secondary evidence is laid, the Xerox copy is not admissible in evidence. In the instant case, merely declaring that the original document is lost would not suffice as there has to be a sufficient proof of the search of original document so as to tender secondary evidence admissible and it was to be established that the party has exhausted all the resources and means in search of the document. Further, to make the Xerox copy admissible, nowhere it is stated that the same is taken from its original or that it is compared with the original after taking its Xerox copy.

(8). In view of the above discussion, the Court is of the considered view that there is no illegality and infirmity in the judgments passed by both the Courts below.

(9). Dismissed.

30.04.2024
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No