



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1239-2023

Date of Decision: 06.02.2025

BEERA

...Applicant

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Ms. Simrat Kaur, Advocate
for Mr. Gursewak Singh, Advocate
for the applicant.

Mr. Neeraj Madan, Sr. D.A.G., Punjab.

HARSH BUNGER, J.

The instant application seeking leave to appeal is preferred against the judgment dated 03.10.2022 passed by the learned Judicial Magistrate 1st Class, Ajnala, whereby respondents No.2 to 8 have been acquitted of the charges under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code.

2. Vide order dated 28.11.2023, the lower Court record was called for and the same was received in this Court.

3. The prosecution case, as per the complaint of complainant-Beera, is that her father Piara Singh and one Didar Singh @ Dara Singh, both sons of Sohan Singh had joint land measuring 52 *kanala* – 18 *marlas* situated at Village Talla, Tehsil Ajnala, District Amritsar. Both Piara Singh and Didar Singh @ Dara Singh, are stated to be truck drivers and married in Haryana. According to the complainant, upon the death of Piara Singh, she

has succeeded to his entire moveable and immoveable property being his legal heir. It is alleged that respondent No.2 herein (Beero) in connivance with Iqbal Singh, Sulakhan Singh and Dheera, prepared a forged Will dated 10.06.1978 of Piara Singh in favour of Didar Singh @ Dara Singh, by showing that Piara Singh was unmarried. Complainant claimed that Piara Singh was married with Maan Kaur in Haryana and the complainant was born out of the said wedlock and that she was the sole legal heir of said Piara Singh. It is further alleged that taking benefit of the forged Will dated 10.06.1978; respondent No.2 (Beero) in connivance with respondents No.4 to 8, herein and one Surjeet son of Bagicha Singh prepared another forged Will of Didar Singh @ Dara Singh in their names and also made a forged Death Certificate dated 10.05.1982 of Didar Singh @ Dara Singh. It is also alleged that the accused persons in connivance with respondent No.9 (R.P. Minhas, Tehsildar, Ajnala) and respondent No.10 (Harjit Singh @ Billa, Patwari) prepared the forged Wills in order to grab the property of Piara Singh and Didar Singh @ Dara Singh because complainant had submitted a representation for not sanctioning mutation in favour of the accused persons; however, respondent No.9 (R.P. Minhas, Tehsildar, Ajnala) ignored the said representation and sanctioned the mutation, in favour of respondent No.2-Beero, vide order dated 19.11.2008.

4. In the preliminary evidence, the complainant examined the following witnesses :-

<i>Sr. No.</i>	<i>Witness name</i>	<i>Examined as</i>
<i>1</i>	<i>Beera (complainant)</i>	<i>CW1</i>
<i>2</i>	<i>Ajmer Singh, Sarpanch</i>	<i>CW2</i>
<i>3</i>	<i>Salwant Singh</i>	<i>CW3</i>

4.1 The complainant tendered into evidence the death certificate of Maan Kaur as Ex. C-1 and death certificate of Piara Singh as Ex. C-2 and closed the preliminary evidence.

5. Thereafter, the accused were summoned to face trial under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code, vide order dated 19.05.2016.

6. After considering the pre-charge evidence and finding a *prima facie* case against the accused persons, the charge was framed only against respondents No.2 to 8, herein under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code.

7. To prove its case, the prosecution/complainant led oral as well as documentary evidence by examining herself (Complainant-Beera) as well as one Paramjit Singh.

7.1 The entire incriminating evidence appearing against the accused were put to them; however, they pleaded that the case was false and that the complainant was not the legal heir of deceased Piara Singh and Didar Singh @ Dara Singh. It was further stated that the Civil Court had already decided the case in favour of accused-Beero (respondent No. 2, herein). It was also stated that Piara Singh and Didar Singh, were the maternal uncles of accused-Beero (respondent No. 2, herein). It was claimed that Piara Singh, executed a Will in favour of his brother Didar Singh on 10.06.1978 and thereafter, upon demise of Piara Singh, Didar Singh became the owner in possession of the property and subsequently, Didar Singh executed a Will in favour of accused-Beero (respondent No.2, herein). It was further claimed that Mutations no.917 and 918 had already been sanctioned by the Revenue

authorities in favour of said Beero (respondent No. 2, herein) and even the Civil Court has dismissed the suit of the complainant on 23.08.2013.

7.2 In defence evidence, the following documents were tendered :-

S. No.	Exhibit/s	Document
1	D1	Jamabandi for the year 2017-18
2	D2	Plaint dated 23.09.2009 in Suit No.288
3	D3	Order dated 23.08.2013
4	D4	Mutation No.917 dated 19.11.2018
5	D5	Pedigree table
6	D6	Mutation No.918
7	D7	Pedigree table

8. After conclusion of the trial, the learned trial Court acquitted the accused persons.

9. The grounds considered by the learned trial Court for acquitting respondents No.2 to 8 herein, are as under :-

“(i) The complainant in her cross examination admitted that she had no joint ration card, voter card or any other document with Piara Singh to prove that she is the only legal heir of Piara Singh. She also did not have any documentary proof of marriage of Piara Singh. She was not aware of sister of Piara Singh nor regarding her paternal and maternal relations. She admitted that she does not know about brothers and sisters of Maan Kaur. She was also not aware of the location of the property in question. She admitted that she had not brought any proof of driving of truck by Piara Singh and Didar Singh. She further admitted that the case which was earlier filed by her and Paramjit Singh, has already been dismissed by the Civil Court, Ajnala and that they have not filed any appeal or revision against the order dated 23.08.2013. It was admitted by her that the Revenue Record was prepared in

the name of Beero. She had no marriage certificate of her mother and father to show that she is daughter of Piara Singh. She also did not know the date, month and year of marriage of Piara Singh or that of Didar Singh.

(ii) Exhibit D-2 revealed that complainant along with others had filed a suit for declaration to the effect that they are owners of land measuring 52 kanals – 18 marlas situated at Village Talla, Tehsil Ajnala, District Amritsar and the alleged Mutation Nos.917 and 918 in favour of defendant No.1 in the suit, are null and void and are liable to be set aside and in the alternative, suit for possession; however, the said suit was dismissed in default vide order dated 23.08.2013.

(iii) Neither the complainant had adduced any evidence to rebut the copy of plaint dated 23.09.2009 in Suit No.288 (Ex. D-2), certified copy of order dated 23.08.2013 (Ex. D-3) and no Civil Court has declared that Will as forged and fabricated.

(iv) The complaint is silent on the aspect that all the accused had prepared forged and fabricated Will dated 10.06.1978, in respect of what property.

(v) The ingredients of Sections 467, 468, 471 and 120-B of the IPC are not fulfilled and neither any evidence in that regard has been brought on record; therefore, the charge under Sections 467, 468, 471 and 120-B of the IPC cannot be established against the accused persons.

(vi) The prosecution has miserably failed to fulfill the ingredients of cheating.

10. Learned counsel appearing for the applicant/complainant, while assailing the judgment of acquittal passed by the trial Court, argued that there is sufficient material available on record which proves that accused/respondents No.2 to 8, in connivance with each other, had prepared forged and fabricated Will of Piara Singh (Will dated 10.06.1978) and Will

of Didar Singh and thereby, cheated the complainant. He further submitted that the commission of offence(s) by the accused persons was duly established and the trial court has wrongly acquitted the accused persons by discarding the prosecution case.

11. Upon consideration of the matter, the only issue which would arise for consideration by this Court is as to whether the prosecution/complainant had succeeded in proving the commission of offences by the accused/respondents No.2 to 8.

12. In the present case, the applicant/complainant has alleged that the accused/respondents No.2 to 8 had prepared forged and fabricated Wills of Piara Singh and Didar Singh and cheated the complainant of the property owned by Piara Singh, who is claimed by the complainant to be her father. The complainant has miserably failed to lead any evidence in support of her claim that she is the daughter of Piara Singh, having been born out of the wedlock between Piara Singh and Maan Kaur. That apart, the Civil Suit No.288 (Ex. D-2) filed by the complainant along with others, seeking declaration that she is the owner of the Suit property situate at Village Talla and Mutations No.917 and 918, sanctioned in favour of Smt. Beero were illegal, null and void and not binding on her; was dismissed in default vide order dated 23.08.2013 (Ex. D-3). Concededly, till date, the order dated 23.08.2013 (Ex. D-3) dismissing the suit of the complainant, has not been set aside nor any Civil Court has held the afore-said Wills, to be forged and fabricated. Even Mutation No.917 and 918, have not been set aside by any Court of competent jurisdiction.

12.1 It is well established that the findings of the Civil Court are not binding upon the Criminal Court, except under section 41 of the Indian

Evidence Act, however since the respondents no. 2 to 8 were sought to be prosecuted by the appellant/complainant by levelling serious allegations of forgery of a Will of Piara Singh, therefore, a duty was cast on the complainant to lead sufficient evidence in the form of expert evidence to show the forgery by the accused and / or other credible evidence, to prove the charges independently in a criminal trial; which is apparently lacking in the case in hand.

13. In criminal appeal against acquittal what the appellate court has to examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the appellate court comes to the conclusion that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court passed in the case of Mrinal Das versus State of Tripura, (2011) 9 SCC 479, it has been observed that :

“13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court.

If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. *There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.....”*

13.1 In the case of **Ghurey Lal Vs. State of Uttar Pradesh, (2008)** **10 SCC 450** in para no.75, the Hon’ble Supreme Court re-iterated the said view and observed as follows :

“75. The trial court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

14. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in the absence of strong and

compelling grounds.

15. In view of the above, we do not find any illegality and perversity in the findings recorded by the trial Court. Accordingly, the judgment of acquittal passed by the learned trial Court is affirmed; resultantly, the present application is dismissed and leave to appeal is declined.

(SUDHIR SINGH)
JUDGE

(HARSH BUNGER)
JUDGE

February 06, 2025
gurpreet

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