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

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CRM-A-2975-2019 (O&M)
Date of decision: September 9th, 2025

Jatinder Nath

.....Applicant

Versus

Rajesh Kumar

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present: Mr. Umaid Singh Mann, *Amicus Curiae* for the applicant.

MANJARI NEHRU KAUL, J.

The instant application for leave to appeal has been preferred by the complainant-applicant Jatinder Nath (hereinafter referred to as the 'complainant') assailing the judgment of acquittal dated 28.11.2018 passed by learned Additional Chief Judicial Magistrate, Barnala, whereby respondent-accused Rajesh Kumar (hereinafter referred to as 'accused') was acquitted of the charges under Sections 120-B, 167, 467, 468, 471 of the IPC.

2. The applicant's case, as presented in the complaint, is that he is the owner in possession of a shop measuring 14 x 36 feet situated at Bhadaur, District Barnala. The shop, according to him, is recorded in the assessment register of Nagar Council, Bhadaur at Sr. No.140 in his name (Exhibit C2). His ownership, it was claimed, had been affirmed by a judgment and decree dated 05.08.1980 passed by the learned Additional District Judge, Barnala (Exhibit C7).

3. On 24.11.2007, the complainant executed an agreement to sell (Exhibit C1) with one Rakesh Kumar son of Devraj for a consideration of ₹14 lakh out of which ₹5 lakh was received as earnest money.

4. Allegedly, the accused-respondent, acting in conspiracy, procured a false entry in the assessment register of Nagar Council, Bhadaur, at Sr. No.57 showing himself as the owner of the shop, on the basis of such fabricated entry (Exhibit C4) and an application moved by accused (Exhibit C3), he projected himself as the owner and dealt directly with Rakesh Kumar, thereby appropriating the balance consideration of ₹9 lakh.

5. The complainant contended that, as a result, he had to refund the earnest money of ₹5 lakh to the purchaser, thus suffering wrongful loss.

6. In support of the allegations, the complainant examined Gurtej Singh, Clerk, Nagar Council, Bhadaur as CW-1, and himself as CW-2, and relied on documents (Exhibit C1 to Exhibit C7).

7. The accused, when examined under Section 313 of the Cr.P.C., denied the allegations, asserted false implication on account of enmity, and led no defence evidence, much less to substantiate the claim of ownership.

8. The trial Court, however, held that the complainant had failed to conclusively establish his ownership of the disputed shop. It observed that the alleged false entry could not be attributed to the accused with certainty, and that the withdrawal of proceedings against a co-accused weakened the allegation of conspiracy. On these grounds, the respondent was acquitted.

9. Learned *Amicus Curiae* appearing on behalf of the applicant has vehemently argued that the agreement to sell (Exhibit C1), the assessment register entry (Exhibit C2), and the decree dated 05.08.1980

(Exhibit C7) proved the ownership and possession of the applicant. It was further argued that the forged entry in the name of accused Rajesh Kumar was duly proved by (Exhibit C3 and Exhibit C4), for which the accused failed to furnish any explanation. Still further, it was asserted that the oral testimony of CW-1 Gurtej Singh, Clerk and CW-2 complainant, was consistent and corroborated by documents, and minor discrepancies noticed by the trial Court, were erroneously treated as material. It was lastly argued that on the strength of the forged entry, accused Rajesh Kumar misappropriated ₹9 lakh and the trial Court gravely erred in acquitting the accused by overlooking the cumulative effect of the evidence.

10. We have heard learned *amicus* at length and perused the record with care.

11. The complainant was required to establish his exclusive ownership of the disputed shop as the foundation of the complaint. However, apart from producing the house tax assessment register (Exhibit C2) and the decree dated 05.08.1980 (Exhibit C7), no registered title deed or contemporaneous ownership document was brought on record. CW-1 Gurtej Singh, Clerk, admitted in cross-examination that the entries in Exhibit C2 did not specify the relevant year and that ownership was recorded on the basis of the person running the shop. He further admitted that no ownership documents of the applicant had been produced. The decree (Exhibit C7) also did not conclusively establish present ownership. The failure of the complainant to produce the best evidence of title is fatal to his case.

12. Further, the complainant alleged falsification of the assessment

register at Sr. No.57 in name of accused Rajesh Kumar. However, neither CW-1 Gurtej Singh, Clerk, nor the complainant as CW-2 could state how and under what authority such entry was made. The complainant himself admitted in cross-examination that he never moved any application for correction of the alleged false entry. CW-1 Gurtej Singh, Clerk, further admitted that documents (Exhibit C3, Exhibit C3/A and Exhibit C4) lacked particulars, and that the property numbers were not even mentioned in Exhibit C5 and Exhibit C6. In these circumstances, the charge of forgery or fabrication cannot be said to have been proved beyond reasonable doubt.

13. It would also be pertinent to point out that the applicant/complainant had originally arrayed multiple accused, including Manvir Singh, but subsequently withdrew his complaint against him. He further admitted that one Parveen Kumar, whose name also appeared in the register, was not made an accused as he resided with him, whereas Rakesh Kumar was living separately. Such selective omission seriously dents the allegation of conspiracy amongst all accused.

14. Furthermore, no cogent evidence was adduced to prove that the accused induced the complainant to deliver property or money. There is also no evidence to establish that the accused actually received the alleged ₹9 lakh. The mere assertion of loss is insufficient to attract Sections 120-B, 167, 467, 468, 471 of the IPC without proof of dishonest inducement and delivery of property.

15. The entire case of the complainant rests on his own testimony as well as the testimony of CW-1 Gurtej Singh, Clerk. Their depositions suffer from material admissions and infirmities. The learned trial Court,

therefore, rightly refrained from placing reliance on them as sole basis of conviction.

16. On a cumulative assessment of the evidence, it is clear that the complainant has failed to discharge the burden of proving ownership of the disputed shop, the alleged forgery of the assessment register, or any dishonest inducement by the accused. The ingredients of the offences alleged are wholly unproved. The judgment of acquittal passed by the learned trial Court is based on a correct appreciation of evidence and does not call for interference.

17. For the reasons recorded above, the instant application for grant of leave to appeal is dismissed and the judgment dated 28.11.2018 passed by learned Additional Chief Judicial Magistrate, Barnala, is hereby affirmed.

18. In the light of the dismissal of the main application, application for condonation of delay i.e. CRM-40932-2019 also stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 9th, 2025 **(H.S. GREWAL)**
Puneet **JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No