

2025:PHHC:078067-DB



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

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**CRM-A-554-2021 (O&M).
Date of Decision: 02.07.2025.**

Dharampal Yadav

....Appellant.

VERSUS

Satish Kumar and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Udit Mendiratta, Advocate for the appellant.

Mr. Varun Sharma, Advocate for respondent No.1.

Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana
for respondent No.3.

ANUPINDER SINGH GREWAL, J. (Oral)

This appeal by the complainant is directed against the judgment of the Additional Sessions Judge, dated 06.04.2021, whereby the Criminal Appeal preferred by respondents No.1 and 2-accused against their conviction recorded by the Trial Court, vide judgment dated 16.08.2018, had been allowed.

2. Learned counsel for the appellant submits that the Appellate Court has erroneously accepted the appeal although there was cogent evidence warranting the conviction of respondent No.1 and the findings of the Trial Court were well reasoned and did not call for any interference. He also submits that mere corrections in the revenue record later would be of no

consequence as the offence was complete when the entry in the mutation was carried out fraudulently.

3. Learned counsel for respondent No.1 submits that there was ambiguity in the statement of respondent No.1-Satish Kumar as recorded before the lower Appellant Court, whereby he had withdrawn his civil appeal regular, ostensibly on the basis of a compromise between the parties. This ambiguity had made its way into the order dated 18.12.2009 passed by the Additional District Judge, Rewari. The mutation No.1301 had been erroneously entered regarding the land in village Karawara Manakpur on the basis of order dated 18.12.2009. The erroneous mistake had been corrected as the mutation was later cancelled to the satisfaction of both the appellant and respondent No.1. Therefore, no harm has been caused to the appellant and he had got his share of land.

4. Heard.

5. It is stated that one Nathu Ram allegedly owned a large parcel of land in village Karawara Manakpur, District Rewari. He had three sons, namely, Hari Singh, Shish Ram and Bihari. After the death of Nathu Ram, his three sons inherited the land in equal shares. Hari Singh had a son, namely, Satish Kumar, who is the accused-respondent No.1. Dharampal Yadav i.e., the complainant is the son of Shish Ram. Thus, respondent No.1 and complainant are first cousins. Bihari expired issueless on 30.11.1998 and after his death, mutation No.837 was sanctioned on 15.04.1999 (Copy is Ex.PW2/A), vide which his share (measuring 64 Kanal—7 Marla) fell equally in the hands of Hari Singh and Shish Ram. Respondent No.1 challenged mutation No.837 in Civil Suit No.329 of 1999 on the ground that deceased Bihari had in his will

bequeathed his entire share to him. During pendency of the suit, it appears that Shish Ram expired and vide mutation No.1032 dated 15.02.2007 (Annexure A-4/Exhibit PW2/B) his share was transferred in favour of his LRs, including the complainant. The civil suit was dismissed by the Civil Judge on 17.09.2008. Thereafter, respondent No.1 filed an appeal before the Additional District Judge, Rewari. On 18.12.2009, the appeal and the suit were dismissed as withdrawn after the parties had arrived at a compromise. The compromise had been arrived at after respondent No.1 had made a statement that he would withdraw the suit and appeal provided the LRs of Shish Ram were willing to accept him as 'owner of possession of ½ estate'. In the latter portion of the statement, he had also stated 'i.e., 02 acres of land in village Karawara Manakpur and 2.5 acres of land in village Rahanawa'.

6. The complainant filed a complaint dated 14.08.2012 before the Magistrate, stating that respondent No.1, the then Patwari-respondent No.2 and other revenue officials in connivance with each other fraudulently got sanctioned mutation No.1301 (Annexure A-5/Exhibit PW2/C), thereby transferring 16 Kanal—2 Marla of land in favour of respondent No.1. On the basis of the complaint, the present FIR no. 352 dated 03.09.2012 was registered under Sections 420, 467, 468, 471 and 120-B of the IPC and the respondents no.1 and 2 were arraigned as accused. After completion of investigation, final report under Section 173 of the Code of Criminal Procedure was submitted before the Court. The accused were charge-sheeted under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, to which they pleaded not guilty and claimed trial. In support of its case, the prosecution examined as many as eight witnesses. Statements of the accused

under Section 313 of the Code of Criminal Procedure were recorded, wherein both the accused denied all the allegations levelled against them and claimed themselves to be innocent. After going through the evidence on record, the trial court vide judgement dated 16.08.2018 had convicted respondents No.1 and 2 under Sections 420/120-B, 467, 468, 471 and 120-B of IPC. Thereafter, respondents No.1 and 2 filed an appeal which was successful.

7. The Sessions Court had primarily acquitted respondents No.1 and 2 on the ground that there was ambiguity in the order dated 18.12.2009 and it could be interpreted in more than one way, as respondent No.1 had stated that he would withdraw the appeal provided that the LR's of Shish Ram were willing to accept him as owner in possession of half estate on the basis of which, the mutation had been sanctioned in favour of respondent No.1 in village Karawara Manakpur and the revenue authorities realizing the mistake had promptly rectified the same and the mutation was cancelled.

8. The fundamental issue for our consideration in the instant case is whether the evidence adduced by the prosecution is cogent so as to warrant the conviction of respondents No.1 and 2 under Sections 420, 467, 468, 471 and 120-B of IPC.

9. It is manifest that no evidence was led by the prosecution to show that any document or record had been forged. The Investigating Officer, who was examined as PW-4, admitted that no forgery was committed nor anyone's signature was forged. He further deposed that respondent No.1 did not further alienate the property or make any efforts to alienate the property. Furthermore, even no evidence was led to show that the Patwari-respondent No.2 and respondent No.1 had cheated/conspired to cheat the complainant.

Even the complainant in his cross-examination admitted that no where it has been stated by him that Satish Kumar ever induced or made any misrepresentation to him so as to grab the share of the complainant. Therefore, the prosecution has miserably failed to prove that respondents No.1 and 2 cheated the complainant, or that any record or document was forged.

10. The only allegation levelled by the complainant appears to be that mutation No.1301 was wrongly sanctioned, the genesis of which appears to be the ambiguous statement recorded by respondent No.1 at the time of withdrawing the suit. The same is reproduced below:

“Statement of Sh. Satish Kumar, age 38 years, son of Sh. Hari Singh, r/o Karawara Manakpur, Tehsil and District Rewari with counsel Sh. K.S. Rao, Advocate.

ON SA

I withdraw the civil appeal regular and the civil suit for declaration and permanent injunction provided LRs of Shish Ram, respondent no.1 are willing to accept me as owner of possession of ½ estate i.e. two acres of land in village Karawara Manakpur, Tehsil & District Rewari and 2.5 acres of land in village Rahanwa, Tehsil and Pataudi, District Gurgaon of deceased Sh. Bihari son of Sh. Nathu, r/o village Karawara Manakpur. I have no objection if legal heirs of Sh. Shish Ram are declared as owner in possession of other half estate of Sh. Bihari in above villages.

RO&AC

ADJ, Rewari
18.12.2009”

The complainant recorded his consent to the statement of respondent no.1 which is reproduced below:

“Statement of Sh. Dharampal, age 49 years, son of Sh. Shish Ram, respondent no.1, r/o village Karawara Manakpur, Tehsil & District Rewari with counsel Sh. Mukesh Gupta, Advocate for LRs of respondent No.1.

ON SA

I have heard statement of Sh. Satish Kumar appellant. The same is acceptable to me and my other family members i.e. mother, brothers and sisters.

RO&AC

ADJ, Rewari
18.12.2009”

11. We are in agreement with the finding of the learned Sessions Court that if one reads the statement of respondent No.1 only to the extent that ***“I withdraw the civil appeal regular and the civil suit for declaration and permanent injunction provided LR of Shish Ram, respondent no.1 are willing to accept me as owner of possession of ½ estate...”*** it would appear that respondent No.1 will be owner in possession of half of the estate of deceased Sh. Bihari and if one reads the next portion of his statement ***“..i.e. two acres of land in village Karawara Manakpur, Tehsil & District Rewari and 2.5 acres of land in village Rahanwa, Tehsil and Pataudi, District Gurgaon of deceased Sh. Bihari son of Sh. Nathu, r/o village Karawara Manakpur,”*** it would appear that respondent No.1 would be owner in possession of two acres of land of deceased Bihari in village Karawara Manakpur. His statement further goes on to state that ***“..I have no objection if legal heirs of Sh. Shish Ram are declared as owner in possession of other half estate of Sh. Bihari in above villages.”*** It appears that the ambiguity in statement of respondent No.1 crept in the order dated 18.12.2009 passed by the then learned Additional District Judge, Rewari, which runs as under:-

“Present: Sh. K.S. Rao, Advocate with appellant Sh. Satish Kumar.

Sh. Mukesh Gupta, Advocate for LR of respondent no.1 with Sh. Dharampal.

Respondents No.2 and 3 exparte before learned trial court.

Through separate statement Sh. Satish Kumar appellant has stated that he withdraws the civil appeal regular and the civil suit for

declaration and permanent injunction provided LRs of Shish Ram, respondent no.1 are willing to accept him as owner of possession of ½ estate i.e. two acres of land in village Karawara Manakpur, Tehsil & District Rewari and 2.5 acres of land in village Rahanwa, Tehsil and Pataudi, District Gurgaon of deceased Sh. Bihari son of Sh. Nathu, r/o village Karawara Manakpur. He has no objection if legal heirs of Sh. Shish Ram are declared as owner in possession of other half estate of Sh. Bihari in above villages.

Through separate statement Sh. Dharampal legal heir of respondent no.1 has stated that he has heard statement of Sh. Satish Kumar appellant. The same is acceptable to him and his other family members i.e. mother, brothers and sisters.

In view of above, the civil appeal regular and civil suit for declaration and permanent injunction are dismissed as withdrawn with the observations that Sh. Satish Kumar appellant/plaintiff and Sh. Dharampal as well as other legal heirs of respondent no.1 Shish Ram shall be bound by aforesaid statements. Trial court record with copy of order be sent. After due compliance, file be consigned to record room.

*Pronounced in open Court
18.12.2009*

*Additional District Judge,
Rewari.”*

12. Moreover, it is not the case of the prosecution that the complainant in any manner was induced, unduly influenced or defrauded to accept the above-mentioned statement made by Satish Kumar in the court of law. It is also not the case of the prosecution that any fraud was committed upon the court in obtaining the order dated 18.12.2009. It is also trite, that the revenue officials are bound to follow the orders of the Civil Court and give effect to the same in the revenue record. The appellant, if aggrieved by the order of the Civil Court, was free to approach the concerned court for any correction or amendment; however, no such step was taken by him and instead he lodged the FIR. It is also not the case of the prosecution that respondent No.2, who was the concerned Patwari, had on his own accord entered the mutation in the revenue records. It is apparent that the Patwari had

merely submitted the matter before the appropriate authority with the material before him and the competent authority taking into consideration the order of the Additional District Judge, Rewari, had sanctioned mutation No.1301. The concerned officials were sought to be arraigned as accused in the criminal proceedings by moving an application under Section 319 Cr.P.C., but the application was dismissed. It is also not in dispute that on the basis of subsequent statements made by the complainant, accused and one Lal Singh, Lambardar which were recorded before the Assistant Collector 2nd Grade, mutation No.1301 was cancelled (Exhibits D2 to D4).

13. It is manifest that criminal proceedings are an offshoot of civil dispute between the legal heirs, which was withdrawn by respondent No.1 before the Appellate Court. It is possible that there was misinterpretation of the order of the Court and the error had been subsequently rectified. Ultimately, no loss or harm was caused to the appellant and he was given his rightful share as per his inheritance and in terms of the compromise arrived at between the parties. Respondents No.1 and 2 have been facing criminal proceedings for over 12 years and in the afore-noted facts and circumstances, we do not find any manifest illegality in the judgment of the Appellate Court acquitting respondents No.1 and 2.

14. Even otherwise, it is trite that interference in an appeal against acquittal would be warranted only where the judgment is perverse or manifestly illegal. By the judgment of acquittal, the presumption of innocence of the accused is reinforced. Even if, another view is possible from appreciation of evidence, the appellate Court should refrain from interfering in an order of acquittal. Reference may be made to the judgment of the

Supreme Court in the case of **Chandrappa & Ors vs State of Karnataka**, (2007) 4 SCC 415. The relevant extract of the judgment is reproduced as under:-

“xxx xxx

the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) to (3) xxx xxxx xxx

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

xxx xxx” (Emphasis supplied)

- 15. Consequently, the appeal being devoid of any merit stands dismissed.
- 16. All pending miscellaneous application(s) also stand disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.07.2025
jitender

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No