



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

122

CRM-A-360-MA-2013 (O&M)
Date of decision: April 25th, 2025

Shakuntala

.....Applicant

Versus

Mahipal

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Kumar Yadav, Advocate
for the applicant.

MANJARI NEHRU KAUL, J.

Applicant is impugning the judgment dated 13.03.2013 passed by the learned trial Court vide which the respondent has been acquitted of the charges in complaint No.80 of 2004 under Section 420/506/406 of the IPC.

2. The case as set up in the complaint by the applicant/complainant in brief is thus:

3. The applicant alleged that her deceased husband, Dheeraj Kumar, and the respondent had jointly purchased a tractor bearing registration No.HR 35-3992. Following her husband's death, the respondent allegedly agreed to pay ₹5,000/- per month to the applicant in lieu of retaining the tractor, however, after January 2004, the respondent ceased making payments and allegedly, without the consent of the applicant, transferred the ownership of the tractor into his own name by forging documents.

4. Upon facing inaction from the police on her complaint, the applicant instituted the instant complaint before the learned trial

Court invoking Sections 420, 406 and 506 of the IPC. After recording preliminary and pre-charge evidence, the respondent was summoned and charged under Section 420 of the IPC.

5. Upon evaluating the evidence produced before it, the learned trial Court found that the case of the complainant was based on the same facts and cause of action as FIR No.226 dated 24.12.2004, which had culminated in a cancellation report and dismissal of the protest petition. The trial Court noted that the complainant concealed these material facts in her complaint.

6. It was concluded by the learned trial Court that the alleged compromise deed dated 02.03.2001, bearing the thumb impressions of the complainant, was verified by the Fingerprint Bureau, and there was no credible material to substantiate the allegations of fraud. The dispute was held to be essentially civil in nature. In view of the principles under Section 300 of the Cr.P.C. and Article 20(2) of the Constitution, as well as the settled law requiring proof beyond reasonable doubt, the trial Court acquitted the respondent, extending to him the benefit of doubt.

7. Learned counsel for the applicant has assailed the impugned judgment primarily on the following grounds:

- (i) Erroneous reliance on the defence evidence;
- (ii) Failure to appreciate the oral and documentary evidence adduced by the applicant;
- (iii) Improper application of the principle against double jeopardy;
- (iv) Failure to appreciate the civil fraud committed by the respondent;
- (v) Failure to properly assess contradictions in the defence evidence.

8. I have carefully considered the submissions of the learned counsel for the applicant and have perused the record.

9. It is evident that the allegations concerning the wrongful transfer of the ownership of the tractor had already been subjected to investigation pursuant to FIR No.226 dated 24.12.2004. The cancellation report submitted therein was accepted by the competent Court upon dismissal of the protest petition filed by Anoop Singh, the brother-in-law of the applicant.

10. Although the learned counsel for the applicant contended that she was the real aggrieved party and not Anoop Singh, the underlying cause of action and factual matrix remain identical. The bar under Section 300(1) of the Cr.P.C. clearly applies where the facts giving rise to both sets of proceedings are the same, as reiterated by the Hon'ble Supreme Court *Kolla Veera Raghav Rao Versus Gorantla Venkateswara Rao and another 2011(2) SCC 703*. Hence, the learned trial Court rightly applied the principle of double jeopardy.

11. Further learned counsel for the applicant placed reliance on oral evidence and documents such as zimni reports and register entries to establish forgery. However, the compromise deed dated 02.03.2001, which transferred the tractor rights, was found to be genuine by the Fingerprint Bureau, and no cogent evidence was brought forth to discredit its authenticity. As rightly noted by the learned trial Court, even assuming the applicant was illiterate, it is implausible that she affixed her thumb impressions without understanding the nature of the transaction, particularly when the document was attested by a Notary Public. Mere allegations of fraud, without substantive proof cannot dislodge the legal sanctity attached to such a verified document.

12. Still further, the dispute pertains to an alleged breach of understanding regarding the ownership of the tractor and payment obligations, which squarely falls within the realm of civil rights and obligations. The criminal process ought not to be employed to enforce purely civil remedies.

13. The learned trial Court duly considered the evidence led by the applicant, including the testimonies of PW-1 to PW-5. A perusal of the impugned order reveals that the learned trial Court has assigned cogent reasons for preferring the defence evidence, particularly the documentary evidence relating to the compromise and the affidavits executed by the complainant and her father-in-law. No material irregularity or perversity can be found in the appreciation of evidence warranting any interference by this Court.

14. Upon a reappraisal of the evidence and the reasoning given by the learned trial Court, this Court finds no illegality, perversity or miscarriage of justice in the judgment dated 13.03.2013. The findings recorded are well-reasoned, legally sustainable, and based on a correct appreciation of law and facts.

15. Accordingly, the instant application for grant of leave to appeal stands dismissed and the judgment dated 13.03.2013 passed by learned trial Court is affirmed.

April 25th, 2025

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No