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

**CRM-A-237-2020 (O&M)  
Date of decision:19.02.2025**

Rameshwar Singh ... Applicant

Vs.

State of Haryana & another ... Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH.  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Salim Ahmed, Advocate for the applicant.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

...

**SUKHVINDER KAUR, J.**

1. Applicant – Rameshwar Singh has preferred the instant application under Section 378(3) Cr.P.C. seeking leave to appeal against judgment dated 06.11.2019 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Hathin, vide which respondent No.2, Fateh Mohammad has been acquitted of offences punishable under Sections 409/420/467/468/471 IPC.

2. Factual scenario, as revealed by complainant is that this complaint case was filed by the complainant with the allegations that he is permanent resident of village Chainsa. Accused is ex-Sarpanch of village Chainsa. He used to distribute old age pension and other pensions to the villagers. Gian Singh S/o Chhida, Rehmati w/o Lallu and Rehmani w/o



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Jafrudin were taking benefit of double pension and one pension of the aforesaid persons used to be embezzled by accused Fateh Mohammad either by affixing thumb impressions of said persons or affixing thumb impressions of other persons in connivance with him. Pension of deceased Man Singh was illegally taken by the accused even after his death. Various complaints were given to the police authorities and administration, but in vain. Hence, the present complaint was filed, in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, Hathin.

3. In the preliminary evidence, complainant – Rameshwar Singh himself appeared as his own witness as CW1 and has reiterated on oath all the averments as made in the complaint. He also examined CW2 Balram, who also supported the version of the complainant. Khoob Chand, Clerk, Social Welfare Department was examined as CW3, who proved the documents Ex.C1 to Ex.C8.

4. After finding sufficient grounds for proceeding against the accused, he was summoned to face trial for commission of offences punishable under Sections 409/420/467/468/471 IPC by learned Sub Divisional Judicial Magistrate, Hathin.

5. In pre-charge evidence, Balram Singh appeared as CW1 and has supported the version of complainant.

Complainant - Rameshwar Singh stepped into the witness box as CW2 and has reiterated the version of the complaint and also proved documents Ex.C1 to Ex.C4.



Khoob Chand, Clerk, DSWO office, Palwal was examined as CW3, who brought summoned record and proved the documents Ex.C1 to C9. He also deposed that amount was deposited by the beneficiaries.

6. The trial Court after finding prima facie case under Sections 409/420/467/468/471 IPC charge sheeted the accused for the said offences to which he did not plead guilty and claimed trial. In post-charge evidence, further cross-examination of CW1 Balram Singh and CW2 Rameshwar Singh was conducted by the accused.

7. After trial, the trial Court acquitted the accused of aforesaid offences.

8. Feeling aggrieved with the judgment dated 06.11.2019, complainant/applicant has filed the present application for leave to appeal against judgment of acquittal of respondent No.2.

9. Learned counsel for the applicant contended that the trial Court has not taken into consideration that serious allegations were there which were proved by the ocular version as well as documentary evidence. Accused/respondent No.2 was Sarpanch of village at that point of time when old age pension of dead person was drawn and double pensions were taken, which could not have been done without his active involvement. He argued that it is the duty of Sarpanch to look into the record and same is prepared only after verification by Sarpanch. Pension of Man Singh was released despite it being in knowledge of the Sarpanch/accused that Man Singh had already expired. He urged that

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from the facts and circumstances, it is proved that Sarpanch/accused actively participated in this offence. While relying upon document Mark 'A', he contended that as accused deposited the amount in the government treasury, it itself reflects that he committed embezzlement and misappropriation of pension amount and when cheating and fraud was noticed by the concerned department then he returned back the embezzled amount. He prayed that as there is sufficient evidence on record for convicting the accused, so this judgment of acquittal be set aside and accused be punished as per law.

10. Specific allegations have been levelled against the accused, by the complainant that accused being Sarpanch of village Chainsa, committed misappropriation of government money, by releasing double pension and pension of Man Singh after his death. Thus, the complainant was to prove the role and obligation of the Sarpanch of village in distributing the pension in the village and he cannot be convicted merely on the basis of assumptions. No such document has been produced on record to prove the same.

11. The trial Court has rightly observed that it has not been proved that Sarpanch was having the knowledge of double entry of name of Gian Singh, Rehmati and Rehmani in the APR. There is also no such evidence on record to prove that pension of deceased Man Singh was released despite knowledge of his death. No evidence has been led to prove that double pension of Gian Singh, Rehmati and Rehmani was



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withdrawn by accused by forging thumb impressions of these persons. Even it has also been proved that APR had been prepared by Sarpanch.

12. It is also to be noted that CW3 Khoob Chand categorically stated during his examination-in-chief as well in cross-examination that the amount wrongfully released was deposited by the beneficiaries and not by the accused.

The trial Court has rightly observed that though role of accused may be suspicious, but evidence on record is not sufficient to prove his guilt beyond the shadow of doubt.

13. Though, reliance has been placed by prosecution upon document mark 'A', but original of mark 'A' has not been produced on record and when the original document has not been brought on record then mark 'A' cannot be taken into account to fix the accountability of the accused. Otherwise also Mark 'A' has nothing to do with the allegations levelled against the accused regarding release of double pension of three persons and drawing of pension of a deceased person even after his death. There is nothing on record to prove that accused had deposited the money in the government treasury.

14. The trial Court has, thus, rightly reached at the conclusion that prosecution has not been able to prove that accused being Sarpanch of village Chainsa had withdrawn the double pension amount of Gian Singh, Rehmati and Rehmani and had drawn pension of deceased Man Singh even after his death and offence under Sections 409/420/467/468/



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471 IPC are not proved against the accused beyond the shadow of reasonable doubt.

15. No other argument has been addressed. Learned counsel for the applicant has been unable to point any illegality, infirmity or perversity in the impugned judgment dated 06.11.2019 passed by the trial Court, which calls for interference.

16. In view of the above, no ground is made out for grant of leave to appeal against the judgment of acquittal and the same being devoid of any merit is accordingly declined. Appeal is dismissed.

17. Pending application(s), if any, also stand disposed of.

( SUKHVINDER KAUR )  
JUDGE

( SUDHIR SINGH )  
JUDGE

**19.02.2025**

*harjeet*

Whether speaking/reasoned?  
Whether reportable?

Yes/No  
Yes/No