

**IN THE HIGH COURT OF HIMACHAL PRADESH  
SHIMLA**

**Cr. Appeal No. 152/2005**

**Date of decision: 29.2.2012**

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**State of Himachal Pradesh** **.....Appellant**  
**Versus**

- 1. Ratti Ram son of Durga Ram R/o village Kunplate  
Tehsil Nalagarh, District Solan, H.P.**
- 2. Surjeet Singh son of Sh. Sunder Ram R/o vill. Khillian  
Tehsil Nalagarh, District Solan, H.P.**

**.....Respondents**

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**Appeal under Section 378 (3) of the Code of  
Criminal Procedure.**

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*Coram:*

**The Hon'ble Mr. Justice Surinder Singh, J.**

*Whether approved for reporting?<sup>1</sup>*

**For the Appellant:** **Mr. A.K. Bansal, Addl. AG with Mr.  
R.P. Singh, Assistant Advocate  
General.**

**For the respondents :** **Mr. Prem P. Chauhan,  
Advocate.**

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**Surinder Singh, J. (Oral)**

The State questioned in this appeal the acquittal of the respondents recorded by the learned Additional Sessions Judge, Solan reversing the judgment of conviction and sentence passed by

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<sup>1</sup> *Whether the reporters of Local Papers may be allowed to see the judgment ?*

the learned trial Court in Criminal case No. 15/2 of 1993 decided on 30.9.1999.

2. Heard and gone through the record.
3. Brief facts giving rise to the present appeal can be stated thus. The Assistant Collector 1<sup>st</sup> Grade Nalagarh had initiated ejectment proceedings against respondent Ratti Ram in respect of land owned earlier as shamlat land later vested in the State Government under the Village Common Land Act, comprised in khasra No. 233/1 measuring 3 biswa situated in village Kunplate Tehsil Nalagarh District Solan, H.P. resorting to the provisions of Section 163 of the H.P. Land Revenue Act wherein respondent Ratti Ram was ordered to be ejected.
4. Feeling aggrieved and dissatisfied by the ejectment order, respondent Ratti Ram filed civil suit for permanent prohibitory injunction in the Court of Sub Judge Nalagarh claiming the said land having been leased out to him by the Gram Panchayat erstwhile owner by Resolution No. 3 dated 7.8.1974. The suit was decreed. The State challenged the judgment and decree passed by the learned Sub Judge in Civil Appeal No. 54-NL/13 of 1990/1989, which was allowed by the then Additional District Judge and the suit was ordered to be dismissed.

During the hearing of the case, the learned Addl. District Judge was *prima facie* of the opinion that the Resolution aforesaid was forged by respondent Surjeet Singh the then Panchayat Secretary as the copy Ext. PW1/A thereof was contrary to the original Resolution which was also tampered with. Thus, he proposed the prosecution of the respondent while accepting the appeal filed by the State, copy whereof is Ext. PW13/A. Consequently vide order of even dated (Ext. PW13/C) reference was made to the SHO for registering the FIR. Accordingly FIR Ext. PW15/A was registered.

5. Police started investigation and during the course of investigation, police took into possession the Resolution Register Ext. P1, appointment and posting letters of Shri Surjeet Singh Secretary of the Panchayat and his predecessor Narsi Ram. Copies of the revenue record of the impugned land and other relevant documents. Resolution No. 3 dated 7.8.1974 containing Register was sent for opinion of the document expert. On examination, as per report Ext. PA, he did not come to a definite conclusion.
6. Police also recorded the statements of some of the witnesses who happened to be present on the date of the passing of the said Resolution. Finding

involvement of the respondents along with other accused, namely, Sant Ram, Member of the Panchayat, Bhag Singh and Narsi Ram aforesaid, presented the challan against all of them in the court for their trial under Sections 420, 467, 478 and 471 Indian Penal Code.

7. Finding a *prima facie* case against each of the respondents, they were accordingly charge sheeted but at the end of the trial, Narsi Ram, Bhag Singh and Sant Ram were acquitted for want of evidence whereas Ratti Ram was convicted under Section 471 Indian Penal Code and Surjeet Singh was convicted under Section 465 Indian Penal Code and each of them were sentenced to undergo imprisonment for a period of one year and to pay a fine of ₹ 1500/- with the default clause .
8. Respondents assailed their conviction and sentence before the learned Sessions Judge, after hearing the parties, case was remanded back to the learned trial Court for fresh decision as the findings about the acquittal or conviction of rest of the accused had not been recorded.
9. After re-hearing, need full was done but again conviction and sentence of the respondents remained intact which was again challenged by

them by filing Criminal Appeal No. 15-NL/10/1999 before the learned Sessions Judge which was allowed on 17.12.2004, their conviction and sentence passed was set aside and stood acquitted on the following grounds:-

- (i) That the Resolution in question pertained to the period when Narsi Ram was the Secretary in the year 1974.
- (ii) Surjeet Singh respondent succeeded Narsi Ram aforesaid but he neither admitted authorship of the Resolution nor alleged tampering therein.
- (iii) Report of the hand writing expert could not conclude with authenticity as to who was the author of the Resolution/alleged tampering.
- (iv) Further, the prosecution neither produce and prove the statement of Surjeet Singh accused as DW2 examined in the civil suit nor the copy of resolution. The witnesses PW3 Gokul, PW7 Sri Ram did not support the case of the prosecution.

10. I have re-examined the evidence on record.

11. PW7 Sri Ram stated that in the year 1974 when Resolution was passed Jagat Ram was Pradhan and Narsi Ram was the Secretary.
12. PW4 Ranjeet Singh Accountant of the BDO Office proved the appointment letter Ext. PW4/A with respect to Narsi Ram. It is also an admitted fact that respondent Surjeet Singh had succeeded him. The alleged tampering is with respect to Resolution Ext. PW8/A dated 7.8.1974 when Narsi Ram was the Secretary. Prima facie in the said Resolution with respect to allotment of the land, name of Ratti Ram is over written on the name of Sant Ram but as to who had done it, there is no evidence. Prosecution seeks support from the hand writing expert which could not connect any of the accused with it. Narsi Ram stands acquitted, his acquittal has not been challenged.
13. Now the question is that the copy of the resolution stated to have been supplied by Surjeet Singh Secretary to Ratti Ram co-accused was a forged document. For that again prosecution evidence is discrepant. When the original entry is not proved as to who had done the forgery, certificate based upon the said entry cannot be said to have been forged by Surjeet Singh. Even copy of

the Resolution stated to have been supplied to Ratti Ram by Surjeet Singh did not find light of the day which was produced in the civil suit during the trial of the suit. Further, prosecution also did not make any attempt to prove the statement of Surjeet Singh when examined before the learned Civil Judge as DW2 admitted to have been issued the copy of the said Resolution. Although tampering of Resolution No. 3 Ext. PW8/A dated 7.8.1974 *prima facie* stands proved but I am at loss to find as to who had done it. The liability thereof can also not be fastened upon respondent Rati Ram in absence of the evidence that he had, in fact, produced the copy of the alleged Resolution supplied by Surjeet Singh.

14. PW3 Gokul, PW7 Sri Ram also testified about the allotment of the land to them on 7.8.1974. The Resolution Ext. PW8/A also corroborates the fact that to some of the villagers, land was leased out.
15. PW16 Shri J. S. Dhaliwal learned Additional Sessions Judge while deciding the appeal had come to a *prima facie* conclusion about the alleged tampering which was required to be investigated and tried by the competent court. But on trial, no clinching evidence against the respondents was placed on record.

16. On the re-appraisal of the evidence cautiously and meticulously, I do not find any legal evidence to convert the acquittal of the respondent and restore the judgment of conviction and sentence passed by the learned trial Court. In the circumstances aforesaid, prosecution failed to prove the case against the respondents beyond reasonable doubt. Therefore, the acquittal of the respondents cannot be said to be perverse as it is based on the evidence on record, thus requires no interference. The appeal filed by the State sans merit and is accordingly dismissed.
17. The respondents are discharged of their bail bonds entered upon by them at any stage during the proceedings of this case.

**February 29, 2012**  
(cm)

**(Surinder Singh),**  
**Judge.**