

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

CRM-M-15266 of 2013

Date of Decision: September 15, 2015

Sumitra

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Salil Bali, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Saurabh Dalal, Advocate
for Mr. Kamal Mor, Advocate
for respondents No.2 and 3.

FATEH DEEP SINGH, J.

The petitioner, Smt. Sumitra, who is an accused in complaint under Sections 420, 467, 468, 471 IPC Annexure P/1 pending before the Court of learned Judicial Magistrate 1st Class, Bahadurgarh has invoked the jurisdiction of this Court in terms of Section 482 Cr.P.C. seeking its quashment as well as of summoning orders dated 21.7.2011 and orders dated 13.2.2012 passed by learned Additional Sessions Judge, Jhajjar dismissing the revision.

Heard, learned counsel for the parties and perused the records of the case. The brief allegations are that accused-petitioner Sumitra, wife of Rajpal, resident of village Chhara, Tehsil Bahadurgarh, District Jhajjar to enable her to secure a loan mortgaged the land comprising of khatoni No. 78,79 Khasra Nos.261(3-2), 262 (3-4), 263(2-14), 839 (3-4), 840(2-0), 841 (3-4), 842(2-16) measuring 21 bighas and 0

biswas equivalent to 105 kanals, 0 marla situated in the revenue estate of village Chhara by way of mortgage agreement Annexure P/2 which was registered on 15.1.2003 fully aware that land in question was not owned by her but by the present complainant and inspite of it by securing forged jamabandi had mortgaged this land. The contentions of the counsel for the petitioner that it was a pure error and that the petitioner has paid back full amount of sum of ₹4 lacs as loan so taken from the bank and as on date the land is free from encumbrance is well thwarted on behalf of the respondent side arguing that the petitioner on the basis of forged revenue record had succeeded in securing a loan from a public bank and, thus, had acted in most dishonest manner and cheated a public institution and has drawn attention of the Court to the jamabandi Ex. P/1 which admittedly is the forged document to show that Sumitra-petitioner along with others was the owner in possession of this land. Not only this, as is reflected from the records one Sarbati respondent No.2 as a Nambardar and respondent No.3 Ranbir, also as a Nambardar had witnessed this document to vouch for the authenticity of the same.

The mere arguments that has sought to be put forth on behalf of the petitioner based on the ratio **2009(4) RCR (Criminal) 369 Md. Ibrahim and others vs. State of Bihar and another** that the complainant by no means stands cheated as the alleged land stands redeemed and the amount of the loan paid and cheating, if any, was qua bank and, thus, the petitioner cannot be held responsible for the same and as such the complainant cannot be a sufferer of this conduct of the petitioner. Admittedly, what has been argued by the petitioner's counsel are matters which can be determined only through the evidence and not by resorting to such provisions under Section 482 Cr.P.C. which as has been laid down in **State of Haryana and others vs. Ch. Bhajan Lal**

and others AIR 1992 S.C. 604 and another are to be sparingly used and besides the settled position of law that in a petition under Section 482 Cr.P.C. Courts are not supposed to critically evaluate evidentiary aspect of the matter and there is no exceptional circumstances forthcoming which could necessitate exercise of inherent powers by this Court. Thus, apparently the petitioner having committed a wrong must face the trial and establish her defence before the trial Court and at this juncture she is not entitled to any relief and her petition which is ulteriorly motivated to escape the trial needs to be dismissed. The same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

September,15, 2015

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