

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-15812 of 2013 (O&M)
Date of Decision: February 20, 2015

Harydayal Singh Saini

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vinod Gupta, Advocate
for the petitioner.

Mr.A.S.Klar, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Angel Sharma, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.25 dated 25.01.2011 under Sections 420, 465, 467,468, 471 and 120-B IPC, Police Station Jirakpur, District S.A.S. Nagar.

Notice of motion was issued in this case and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned counsel for respondent No.2 and have gone through the record.

As per the FIR, the allegations are that the complainant submitted application and after recording the statement of the applicant-complainant and other witnesses, case was recommended to be closed. Again, an application was filed and it was requested to re-enquire the case from other senior officer. It is stated in the application that agreement to sell dated 04.01.1997 was executed by Harnek Singh in favour of the applicant. Applicant paid ₹11 lacs to the land owners i.e. sellers. The last date for execution of sale deed was finalized as 30.07.1997. The said date was changed to 30.06.1997 in a fraudulent way. It is also in the application/FIR that the applicant-complainant filed a civil suit against the afore-mentioned persons, in which they appeared and told to complainant verbally that they will make the compromise but thereafter they flatly refused. It is further stated that Harydayal Singh Saini is a property dealer and belongs to the same village. He was aware of all the facts before the deal and ongoing civil suit between the applicant and persons mentioned at Sr.No.1 to 9 of the application. It is alleged in the application that petitioner came to meet the applicant and asked him to forget about ₹11 lacs paid as earnest money. It is further stated in the application that Harydayal Singh Saini finally made arrangement to sell the above-said land in connivance with the land owners and got the land sold in the year 2006 and he signed as witness in all the sale deeds executed, which proves that he intentionally did everything and executed the threat he gave to the complainant.

The perusal of the FIR shows that agreement to sell was

executed on 04.01.1997 and the sale deed was to be executed on 30.06.1997 or 30.07.1997. No such sale deed has been executed on the specific date. It is clear from the FIR that ₹11 lacs was paid as earnest money. All these facts, without appreciation of any fact, can be taken as it is. There is civil proceeding pending between the parties regarding the breach of the agreement. The Civil Court is to decide as to who was not ready and willing to perform his part of the contract.

The perusal of the FIR, on the face of it, shows that civil suit was already filed by the present complainant. When the date for the execution of sale deed was in year 1997 and the civil suit was filed in year 2000, then the sale of property in the year 2006, in no way, can be held as by playing fraud. Even if, it is taken that it has been executed during the pendency of the civil suit, then doctrine of *lis pendens* applies and it is for the Civil Court to see the affect on the rights of the complainant. As regarding criminal offence, on the face of it, if all the facts are taken as it is, no offence is made out against the present petitioner. The FIR has been got registered in the year 2011 i.e. after fourteen years of the date fixed for execution of sale deed.

In view of the above, I find merit in the present petition and the same is allowed. FIR No.25 dated 25.01.2011 under Sections 420, 465, 467,468, 471 and 120-B IPC against the present petitioner is hereby quashed.

February 20, 2015

Vgulati

VINEET GULATI
2015.03.03 14:03
I attest to the accuracy and
authenticity of this document
Chandigarh

**(INDERJIT SINGH)
JUDGE**