

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

201

CRM-M-15510 of 2014 (O&M)
Decided on : 30.11.2015

Sanjeev Kumar

... Petitioner

Versus

State of Haryana

.. Respondent

CRM-M-18051 of 2014 (O&M)
Decided on : 30.11.2015

Rekha Sharma

... Petitioner

Versus

State of Haryana

.. Respondent

CORAM : HON'BLE MR.JUSTICE M.M.S.BEDI

Present : Mr.Harish Nain, Advocate
for the petitioners.
Ms.Vikramjit Singh, Addl.AG, Haryan.
Mr.M.S.Khilan, Advocate for the complainant.

M.M.S.Bedi, J. (Oral)

This order will dispose of the aforesaid two petitions for pre-arrest bail, one filed by Sanjeev Kumar and another by Rekha Sharma wife of Sanjeev Kumar in case which was registered at the instance of complainant, Satish Garg by filing a complaint under Section 156(3) Cr.P.C. in the court of Area Magistrate, Karnal.

Briefly stated that case of the prosecution is that a house was agreed to be sold by the petitioners to the complainant on payment of sale consideration of Rs.31 lacs. The grievance of the complainant is that the entire sale consideration has been paid but the petitioners have not got the sale deed executed in favour of the complainant.

Learned counsel for the complainant has intervened to oppose the pre-arrest bail of the petitioners alleging that they duped him of huge amount and that by refusing to execute the sale deed in favour of the complainant, the complainant has been cheated. It has been argued by learned counsel for the complainant that Sanjeev Kumar is working as Jail Warden and then by using his influence, he has grabbed the money of the complainant.

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

It is an admitted fact that the subject matter of the dispute is house and its possession has already been delivered to the complainant by the petitioners. So far as the enforcement of legal rights for execution of sale deed is concerned, the same can be achieved by filing a civil suit for specific performance by the complainant. The complainant is admittedly in actual possession of the property, as admitted by the complainant. On account of the obligation of handing over possession has already been performed, and the enforcement of legal right to get sale deed executed, can be achieved by filing a civil suit, this appear to be a dispute of civil liability also. The liability of the petitioners is rather civil as well as criminal as the grievance of the complainant is that petitioners have persuaded the complainant to part with money with mala fide intention not to execute the sale deed. Whether the intention existed at the very inception of entering into agreement to sale is to be determined at the time of the conclusion of the trial.

The parties appear to have earlier entered into a Panchayati agreement on 06.02.2014 for performance of their part of obligation regarding return of money to the complainant.

In the totality of the circumstances and peculiar facts of the case, it appears that Sanjeev Kumar is also facing criminal case under Section 354 IPC at the instance of wife of the complainant. Prima facie malice is apparent. Chances of Sanjeev Kumar evading the process of law is remote as he is a government employee.

The petition of Sanjeev Kumar is allowed. It is ordered that in case of arrest of Sanjeev Kumar, he will be released on bail to the satisfaction of the Arresting Officer subject to the condition that he will join the investigation as and when required.

So far as bail application of Rekha Sharma who is also owner of the property, is concerned, there is no justification with her to deny the execution of the sale deed in favour of the complainant after having received the money. Despite a Panchayati compromise dated 06.02.2014 seems to have been taken place, no step has been taken to either even return the amount. Her application is dismissed at this stage.

Since the matter was at one point compromised, it will be open to petitioner, Rekha Sharma to seek pre-arrest bail again after the obligation is performed.

[M.M.S.Bedi]
Judge

30.11.2015
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