

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-4101 of 2011 (O&M)
Date of Decision: February 18, 2015

Tarlok Chand and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vikas Bali, Advocate
for the petitioners.

Mr.S.S.Chandumajra, Deputy Advocate General, Punjab
for the respondent-State.

None for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.260 dated 21.11.2010 under Sections 406 and 120-B IPC registered at Police Station Jodhewal, District Ludhiana.

Notice of motion was issued and learned State counsel appeared, filed reply and contested the petition. Learned counsel for respondent No.2 earlier appeared and filed written statement on behalf of respondent No.2, but today absented from the proceedings.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that FIR in this case has been got registered on the application filed by Vijay Kumar complainant-respondent No.2, in which he stated that action be taken against Tarlok Chand and Balvir Kumar for disobeying the Court orders by registering the sale deed in other persons' name and for committing fraud with them and for giving threatening to kill them. It is further stated in the application that they have executed an agreement to sell on 28.03.2005 of plot No.181-182 measuring 323 sq. feet consisting in Gahilewal Abadi near Swaran Park Garden Avenue, Ludhiana with Tarlok Chand and Balvir Kumar, for a consideration of ₹10.25 lacs out of which ₹3.45 lacs was given as earnest money. After that sellers due to ill intention, extended the date for registration of sale deed. Regarding that, there is a Court case with the sellers. But by ignoring the agreement to sell and Court case, sellers have executed the sale deed in other persons' name after dispossessing the complainant from the possession of one hall and they have stolen his goods. The FIR in this case has been registered under Sections 406 and 120-B IPC.

Firstly, the perusal of the FIR shows that nothing has been mentioned as to how the complainant came into possession over on the hall. Nothing has been mentioned in the FIR, what type of goods have been stolen. There is no such mention regarding things stolen from the hall. Even, the FIR has not been registered under Section 379 IPC nor any offence under criminal trespass etc. Annexure P-2 is the agreement to sell. Annexure P-3 is the copy of the civil suit filed by Tarlok Chand and Balbir Kumar against Vijay Kumar for declaration

to the effect that agreement to sell dated 28.03.2005 executed by the plaintiffs in favour of the defendant is illegal, null and void, infructuous, capricious and having no force of law and is not binding on the rights of the plaintiffs and suit for grant of decree of permanent injunction restraining the defendant from interfering in the peaceful possession of the plaintiffs except in due course of law. This suit has been filed on 13.09.2005. A written statement in this suit was filed by Vijay Kumar present respondent No.2 on 10.05.2006, in which it is stated that last date for execution of sale deed was settled as 02.07.2005, which means that after the expiry of the last date for executing the sale deed, this suit has been filed in the month of September, 2005 by the present petitioners. Annexure P-7 is the copy of the sale deed executed by Balvir Kumar and Tarlok Chand on 09.03.2009. There is nothing on the record to show that any suit has been filed by the defendant for specific performance of agreement to sell till date. The perusal of the FIR itself shows that the case is of civil nature. There is nothing on the record to show any intention of the present petitioners to cheat respondent No.2 from the very beginning. Otherwise also, if the petitioners have disobeyed the orders of the Court or any injunction order, the remedy lies before the Civil Court and it will not amount to committing of an offence.

From the record, I find that no order of injunction etc. has been placed on record to show that Court has passed any order of injunction restraining the present petitioners not to alienate the suit land. There is also nothing on the record to show that the petitioners

have violated the order of the Court. The petitioners are owners of the property and they have alienated the same after about four years after the date of executing the sale deed on the basis of agreement to sell has expired.

From the record, it is clear that the dispute is regarding breach of the agreement and is purely of civil nature. No offence has been committed by the present petitioners. The registration of the FIR by the respondent is nothing but abuse of process of law. Therefore, finding merit in the present petition, the same is allowed. FIR No.260 dated 21.11.2010 under Sections 406 and 120-B IPC registered at Police Station Jodhewal, District Ludhiana and all other subsequent proceedings arising therefrom are hereby quashed.

February 18, 2015
Vgulati

(INDERJIT SINGH)
JUDGE