

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-38060 of 2013(O&M)
Date of Decision: 15.01.2015

Satnam Singh and another

---Petitioners

versus

State of Punjab and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Nakul Sharma, Advocate
for the petitioners

Mr. Ankur Jain, AAG, Punjab
for the respondent-State

Mr. R.S.Sekhon, Advocate
for respondent No.2

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure (in short “Cr.P.C.”) has been preferred for quashing FIR No. 64 dated 22.8.2013 registered at Police Station Lakho Ke Behram, District Ferozepur for offence punishable under Sections 420, 120-B of the Indian Penal Code (in short “IPC”) and proceedings emanating therefrom.

As per allegations raised in the first information report lodged at the behest of Surjeet Singh, respondent No. 2, the accused entered into an

agreement to sell land measuring 01 kanal 19 marlas consisting of a house with boundary wall, received Rs. 4,15,000/- as earnest money but failed to execute the sale deed and are making excuses.

Counsel for the petitioners contends that the petitioners are not party to the alleged agreement to sell purportedly executed by Kulwant Singh, one of the co owners in the land in question. The petitioners never authorised said Kulwant Singh to enter into any such agreement for the sale of their share in the land in question. It is further argued that if Kulwant Singh has failed to discharge his obligation under the agreement, the respondent-complainant is well within his right to take recourse to appropriate proceedings seeking specific performance of the agreement to sell and as a matter of fact he has already filed the suit in the Court wherein the present petitioners have not been arrayed as party. It is further argued that even if allegations of the complainant are accepted on its face value, the same, at best, gives rise to civil dispute but it has been given the colour of criminality with an intent to put pressure upon the petitioners and Kulwant Singh to agree to the terms of the respondent and the respondent has lodged the criminal proceedings by taking advantage of his position as Sarpanch of the village. It is argued with vehemence that criminal proceedings initiated by respondent No. 2 against the petitioners are nothing but an abuse and misuse of process of law and liable to be quashed. In support of his contention, he has relied upon judgments of this Court *Arun Kumar and another vs. State of Punjab and another 2006(3) RCR(Criminal) 793* and *Bal Krishna Garodia vs. State of Haryana 2011(3)R.C.R.(Criminal) 189*.

Counsel for respondent No. 2 would submit that disputed

questions of fact are not amenable to adjudication in proceedings under Section 482 Cr.P.C., therefore, the question of culpability of the petitioners needs to be left to be decided by the trial court after permitting the parties to lead evidence.

I have heard counsel for the parties and perused the records.

It is an admitted position of the case that the petitioners are not a party to the agreement to sell allegedly executed by Kulwant Singh. There is nothing on record to suggest that the petitioners being co-owners of the land in question ever authorised said Kulwant Singh to enter into transaction of sale on their behalf. The complainant has filed the civil suit seeking specific performance of the agreement in question in which the petitioners have not been arrayed as defendants. This apart, even if there was any such agreement between the parties and the vendor has failed to perform his part of the agreement, in absence of any material on record that the vendor had any dishonest intention right at the beginning of the transaction, the ingredients of offence of cheating contained in Section 415 IPC punishable under Section 420 thereof are not satisfied. The judgments relied upon by counsel for the petitioners fully support his submissions that no offence under Section 420 IPC is made out against the petitioners. The criminal proceedings against the petitioners, in the circumstances of the present case are nothing but an abuse and misuse of process of law and cannot be allowed to sustain.

For the reasons aforesaid, the petition is allowed, FIR No. 64 dated 22.8.2013 registered at Police Station Lakho Ke Behram, District Ferozepur for offence punishable under Sections 420, 120-B IPC and

proceedings emanating therefrom are ordered to be quashed qua the petitioners.

(REKHA MITTAL)
JUDGE

15.01.2015

PARAMJIT