

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

**Crl. Revision No.626 of 2014(O&M)
Date of decision : 17.09.2015**

Dharambir

.....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Arun Yadav, Advocate
for the petitioner.

Mr. G.S. Salwara, DAG, Haryana.

Mr. R.D. Yadav, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

The revisionist had been sentenced to 2 years' rigorous imprisonment along with fine of Rs.500/- in a complaint filed under Section 420 IPC.

The complainant had purchased 12 marlas of land vide sale deed dated 15.10.1999. The property comprised of two rooms and gallery. A boundry wall enclosed it. This plot formed part of rectangle no.22. The complainant alleged that she had been cheated as the area sold to her was 12 marlas but the share of the vendor was only 7 marlas. The matter was reported to the police by the son of the complainant. No action was taken by the police which led to the filing of a complaint.

Pre-charge evidence was led and charge was framed under Section 420 IPC.

The trial Court rejected the defence and convicted the petitioner to a sentence of two years along with fine of Rs.500/-.

The appeal filed by the petitioner was also dismissed by the Additional Sessions Judge, Rewari on 30.01.2014.

The petitioner restricted his prayer only to the quantum of sentence.

Notice of motion was issued. After the respondent appeared, an offer was made on behalf of the petitioner that he was ready to pay the principal amount along with simple interest @ 9% back to the complainant provided the complainant handed over the vacant possession of the land transferred in her name and further to get the plot in question re-transferred in the name of petitioner.

Counsel for respondent no.2 had sought time to seek instructions.

On 02.02.2015, it had been stated by the counsel appearing on behalf of the petitioner that he had instructions to state at bar that the petitioner would return Rs.2,01,000/- along with simple interest @ 9% from 15.10.1999 up to the date of handing over the bank draft. The complainant side on instructions accepted the proposal and on these assertions, the sentence was suspended.

Thereafter, the petitioner sought two months' time to pay the amount and stated that the sale deed would be executed on 18.06.2015 and the payment would be made on that day. The case was adjourned again to enable the parties to complete the formalities. Meanwhile, since the petitioner had sought two months' more time, he was taken into custody as there was no order of extension. The petitioner failed to adhere to the conditions and he was thereafter, asked to surrender. The petitioner had surrendered on 06.08.2015.

Today the counsel for the petitioner states that the petitioner does not have the means to return the amount. The counsel for the complainant states that Santra Devi had filed a suit in 2001 seeking possession of the remaining land and that was dismissed and she has been deprived of the fruits of the sale deed nor the amount has been returned and the offer had been made by the petitioner even before the trial Court and he refers to para no.17 of the judgment of the Addl. Sessions Judge. It was urged that the appellant had given an assurance that he would get the land vacated from his father and brother and if he fails to deliver the possession then he would be guilty of violation of the assurance. It was urged that the complainant has been struggling and has been fighting for the last 15 years and the petitioner was not entitled to any leniency.

The custody certificate is available on record. According to which, the petitioner has undergone one year and four months of custody. False assurances were being

given by the petitioner, all along. The complainant has been deprived of the property. She was forced to file civil and the criminal case. The petitioner was given ample opportunity to compensate the complainant. Enough time has been given. She has not been compensated nor the land was given. No leniency can be shown.

The revision is dismissed.

17.09.2015
sunil

(ANITA CHAUDHRY)
JUDGE