

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.31102 of 2013
and
Criminal Misc. No.A-366-MA of 2013

.....

Date of decision:11.2.2016

Ajaib Singh

...Applicant

v.

Rajinder Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. B.S. Sidhu, Advocate for the applicant.

Mr. B.S. Bhalla, Advocate for respondents No.1, 2, 4 and 5.

Mr. K.K. Saini, Advocate for respondent No.3.

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Inderjit Singh, J.

Criminal Misc. No.31102 of 2013:

For the reasons mentioned in the criminal miscellaneous application, the delay 387 days in filing the application for leave to appeal and appeal is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.A-366-MA of 2013:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(3) [sic. - 378(4)] Cr.P.C. against Rajinder Singh etc.-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 2.2.2012 passed by learned Sub

Divisional Judicial Magistrate, Dhuri, whereby the complaint filed for the offences under Sections 420, 465, 467, 468, 471 and 120-B IPC against the accused has been dismissed.

Notice of motion has been issued in the application.

Mr. B.S. Bhalla, learned Advocate has put in appearance on behalf of respondents No.1, 2, 4 and 5 and Mr. K.K. Saini, learned Advocate has appeared for respondent No.3 and contested this application for leave to file appeal.

Learned counsel for the parties stated that they are ready with the arguments.

I have heard learned counsel for the parties on the application for leave to file appeal and have gone through the record.

It is mainly submitted in the application that the applicant is filing the accompanying criminal appeal against the judgment of acquittal which is likely to succeed as per grounds mentioned therein. It is further stated that the prosecution has fully proved the case against the accused/respondents for the offences under Sections 420 and 120-B IPC as the respondents/accused have committed the offences as mentioned above. It has been prayed that the application may be allowed and in the interest of justice leave to file appeal may be granted against the judgment of acquittal passed by learned Sub Divisional Judicial Magistrate, Dhuri.

From the record, I find that Ajaib Singh filed complaint against Rajinder Singh, Sukhwinder Singh and Satwinder Singh (minor sons of Rajinder Singh), Davinder Singh, Tejinder Singh, Baldev Singh, Raj Kumar

Singla and Moti Lal for the offences under Sections 420, 465, 467, 468, 471 and 120-B IPC. It is stated in the complaint that accused No.1 to 3 are father and sons and accused Nos.4 and 5 are the property dealers and accused No.6 is the relative of accused No.4. Accused No.7 is Documents and Deed Writer and accused No.8 is Sub-Registrar, Dhuri. It is stated that the complainant entered into an agreement to sell land measuring 74 Bighas 11 Biswas @ ₹1,05,750/- per Bigha with accused No.1 vide agreement to sell dated 11.8.2004. The sale deed was to be executed till 27.12.2004. Thereafter, accused No.1 got the sale deed No.2577 executed on 13.10.2004 and registered on 14.10.2004 in favour of his sons accused Nos.2 and 3 by playing fraud in connivance with accused Nos.4 and 5 and accused Nos.7 and 8. Accused instead of land measuring 45 Bighas got executed and registered the sale deed for land measuring 73 Bighas for consideration of ₹78,88,662.50 as per agreement to sell dated 11.8.2004. It is also stated that accused No.1 to 7 also got signed blank papers and pronote and receipt from the complainant on 13.10.2004 and 14.10.2004 by playing fraud and misrepresentation for illegal consideration of ₹8 Lakhs by putting date on 27.11.2003. It is also stated that the columns of the pronote and receipt were filled by Davinder Singh accused No.4 and he filed a false suit for recovery in the Civil Court. The accused also forged a receipt of ₹21 Lakhs on one of the above said blank papers.

The learned Sub Divisional Judicial Magistrate, Dhuri, vide judgment dated 2.2.2012 acquitted the accused.

From the record, I find that nothing has been pointed out as to

how the findings given by the Court below are perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered. The complainant has examined CW-1 Sanjiv Kumar, Record Clerk, himself as CW-2, Sucha Singh as CW-3, who is witness of the agreement.

The Court after appreciating the evidence in right perspective held that sale deed was executed on 13.10.2004 and registered on 14.10.2004 and it is the case of the complainant that the accused instead of land measuring 45 Bighas got executed and registered the sale deed for land measuring 73 Bighas for a total sale consideration of ₹42,60,000/- only instead of the sale consideration of ₹78,83,662.50. As per the complainant, the matter was reported to the Police, but no action was taken. The Court held that only a mere application was filed which cannot be read into evidence. The complainant failed to prove any receipt number or any postal receipt etc. when this application was moved to Police. The sale deed was executed in the year 2004 and the complaint was filed on 7.9.2006 after the delay of about two years and there is no satisfactory explanation regarding the delay. Otherwise also, if his signatures were obtained on some blank papers and less consideration had been paid or the land in the sale deed had been mentioned more, then the complainant should have taken a prompt action by filing criminal complaint immediately or by raising objection before Sub-Registrar or by reporting to the senior Police officers but no such step has been taken. It is also in the evidence that the sale deed was read over and explained to the parties. The Court held that there is no

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cogent evidence on record to prove that the sale deed was result of fraud, misrepresentation etc. Civil suit filed by the present complainant has already been dismissed. The Sub Registrar has appeared as DW-1. It is also in the evidence that Rajinder Singh-accused No.1 came into possession over the land in question after the execution and registration of the sale deed. It is also stated by the complainant that he has filed the present complaint because accused person had filed a case against him.

After discussing all this evidence, the learned Sub Divisional Judicial Magistrate, Dhuri, acquitted the accused. From the perusal of the record, I find that the findings given by the learned Sub Divisional Judicial Magistrate, Dhuri, are correct as per evidence and law. The evidence has been appreciated in right perspective. In no way, the findings can be held as perverse. The judgment of acquittal passed by the learned Sub Divisional Judicial Magistrate, Dhuri, does not require any interference from this Court.

Therefore, I do not find any ground to grant leave to file appeal. Hence, finding no merit, the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal is dismissed.

February 11, 2016.

(Inderjit Singh)
Judge

hsp