

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CRM-M No.11375 of 2013(O&M)

B.B.PuriPetitioner

Versus

Chander PehalwanRespondent

(ii) CRM-M No.11376 of 2013(O&M)

Sandeep and othersPetitioners

Versus

Chander PehalwanRespondent

(iii) CRM-M No.10593 of 2014(O&M)

Smt.Manpreet and anotherPetitioners

Versus

Chander PehalwanRespondent

Date of Decision:25.02.2016

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

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

Present: Mr.Bipin Ghai, Senior Advocate,
with Mr.Jaivir Yadav, Advocate,
for the petitioner(s) .

Ms.Anju Sharma, Advocate,
for Mr.Pankaj Bhardwaj, Advocate.

Mr.R.S.Rai, Senior Advocate,
with Mr.Gautam Dutt, Advocate,
for the respondent.

KULDIP SINGH, J.(oral)

By this single judgment of mine, I shall dispose of three

criminal petitions i.e. CRM-M No.11375 of 2013 filed by B.B.Puri, CRM-M No.11376 of 2013 filed by Sandeep and others and CRM-M No.10593 of 2014 filed by Smt.Manpreet and another.

Petitioners are seeking quashing of criminal complaint No.61/2006 dated 26.10.2006 (Annexure P-1) pending in the Court of Judicial Magistrate Ist Class, Gurgaon. They are also seeking quashing of summoning order dated 08.01.2013 (Annexure P-2), vide which, they were summoned to face trial for commission of offences punishable under Section 406 read with Section 120-B IPC.

The facts mentioned in the complaint (Annexure P-1) are that complainant-Chander Pehalwan entered into an agreement to purchase the land measuring 20 kanals 2 marla, situated in village Nimoth, Tehsil Sohna, District Gurgaon, from Sandeep son of Rajender, Swaran Singh son of Jagjeet Singh Arora, Smt.Jaspreet wife of Vikram Sharma and Smt.Manpreet wife of Navkaran Singh (hereinafter to be referred as accused Nos.1 to 4) on 09.08.2004. The land was sold @ ₹2,60,000/- per acre for a total consideration of ₹6,53,250/-. A sum of ₹75,000/- was paid by the complainant as earnest money and the date of registration of sale-deed was fixed for 16.08.2004, which was later extended upto 30.09.2004 and later on it was extended upto 15.10.2004. On that day, there was a Govt. holiday. Therefore, the complainant appeared before the Sub Registrar on next working day i.e. 18.10.2004 but accused Nos.1 to 4 did not come present for execution of the sale-deed and demanded the balance amount through bank draft. It is further alleged that accused Nos.1 to 4 in connivance with accused Nos.5 and 6 in order

to commit fraud with the complainant executed the sale-deed in favour of accused No.6, namely, B.B.Puri on 26.09.2005. It is also claimed that accused Nos.1 to 4 had not turned up to execute sale-deed because of increase in the prices of land after 09.08.2004.

After recording the preliminary evidence, summoning order 08.01.2013 was passed by the Judicial Magistrate Ist Class, Gurgaon.

I have heard learned counsel for the parties, and have also carefully gone through the file.

The facts reproduced above shows that it is basically a civil dispute. In pursuance to the agreement, the sale-deed was to be executed on the extended date, but the sale-deed was not executed for one or the other reason till the extended date i.e. 15.10.2004. Thereafter, accused Nos.1 to 4 executed the sale-deed dated 26.09.2005 in favour of accused No.6 B.B.Puri, i.e. nearly after a period of eleven months of the expiry of the last date fixed for execution of the sale-deed in favour of the complainant. The complainant himself claimed in his complaint that this was done on account of increase in the prices of land after 09.08.2004. This fact shows that at the most because of the increase of the prices of land after execution of the agreement, the complainant turned dishonest. Therefore, it is clear from the very beginning that there was no intention to cheat or misappropriate the earnest money as mentioned above. It also comes out that on the basis of same facts, FIR No.398 dated 15.12.2005 under Sections 420, 406 and 120-B IPC in Police Station Sohna, District Gurgaon, was got registered and vide report

(Annexure P-5), a cancellation report was submitted stating that it is a case of civil dispute. It also comes out that on 09.11.2005, the complainant had filed a civil suit for specific performance. I am of the view that the present complaint is nothing but an abuse of the process of law.

Accordingly, the present petitions are allowed and the complaint No.61/2006 dated 26.10.2006 (Annexure P-1) and summoning order dated 08.01.2013 (Annexure P-2) along with all the consequential proceedings arising therefrom are hereby quashed.

(KULDIP SINGH)
JUDGE

February 25, 2016
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