

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

**CRM-M-14986-2016
DECIDED ON: MAY 05, 2016**

SMT. AMARJIT KAUR

....PETITIONER

VERSUS

SMT. SATWINDER KAUR & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers 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. A.K. Vermani, Advocate,
for the petitioner.

JASPAL SINGH, J.

This is a petition preferred under Section 482 of the Code of Criminal Procedure seeking quashing of order dated 26.10.2013 vide which complaint of the petitioner has been dismissed by Id. Judicial Magistrate Ist Class, Amritsar as well as to quash the order dated 29.04.2015 passed by Id. Additional Sessions Judge, Amritsar vide which, revision petition filed by the petitioner against the aforesaid order has been dismissed and order passed by JMIC has been upheld.

2. While assailing impugned order, it has been argued with vehemence by learned counsel for the petitioner that though there is

sufficient evidence adduced by the petitioner to substantiate the evidence in the complaint but both the courts below have wrongly dismissed the complaint lodged against the accused persons.

3. Observations given by the courts below are that the petitioner could not place anything on record in order to prove that there has been forgery of any sale deed because respondent No.1 has executed a sale deed to the extent of 250 Sq. Yds which belongs to her. However, petitioner has successfully proved the dishonest intention of the respondents to cause dishonest gain to them and to cause dishonest loss to the petitioner.

4. Learned counsel for the petitioner contends that both the courts below have neither considered the facts nor law in correct perspective and reached at erroneous judgments, which are liable to be set aside by way of accepting the present petition.

5. Learned counsel for the petitioner further contends that in the civil suit filed by the respondents against the petitioner for injunction they have alleged that the revisionist relinquished her share in the property, whereas, no relinquishment deed was ever executed. Since, respondents have forged sale deed and relinquishment deed, thus, the complaint was filed by the petitioner against them in order to prove her allegations.

6. Learned counsel for the petitioner further contends that at the stage of summoning of accused persons, only prima facie satisfaction has to be seen by the concerned Magistrate so that trial can be initiated against the accused and Magistrate is not required to scrutinize the evidence, if, the evidence brought on record by the complainant is sufficient to warrant

the conviction of the accused persons as has been done in the instant case. Thus, the impugned orders are not sustainable in the eyes of law and are liable to be set aside. Consequently, the case deserves to be returned to the Id. Magistrate for re-appreciating the evidence and to pass a fresh order.

7. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but is not in agreement with the same.

8. No doubt, at the time of summoning of a person as an accused, only prima facie case is to be seen but at the same time the court cannot lost sight on the fact that conviction of an accused in criminal case is matter of course, it is not that the complainant has to bring only two witnesses to support his/her allegations in the complaint. The order of the Magistrate to summon the accused must reflect that he has applied his mind to the facts as well as law applicable thereto. He has not only to examine the nature of allegations made in the complaint but the evidence brought on record oral as well as documentary in support thereof. The Magistrate is a silent spectator at the time of recording preliminary evidence before summoning of a person as an accused. Rather, he is duty bound to carefully scrutinize the evidence brought on record and even he has got ample power to put question to complainant and the witnesses to find out the truthfulness or falsity of the allegations.

9. In the case in hand, petitioner has filed the complaint against the respondents on the ground that respondents in order to cause wrongful loss to her and for wrongful gain to themselves forged the sale deed dated

09.11.2006. In Civil Suit for permanent injunction, respondents alleged that petitioner relinquished her share in the property for consideration of ₹70,000/-, which the petitioner has denied the allegations. Moreover, as per allegations of complainant/petitioner both the petitioner and respondent No.1 were owners to the extent of 50% share in the property. Respondent No.1 sold only 250 Sq. Yds land to respondents No.2 and 3 vide sale deed Mark CX. There is nothing on the record that respondent No.1 has sold more than her share or sold the share of petitioner. There is no document on the file executed by petitioner vide which she is stated to have relinquished her share in the property. Therefore, both the courts below have rightly held that there is nothing on the record to show that the sale deed is forged document and any wrongful loss has been caused to the petitioner. Even otherwise, during the course of arguments, learned counsel for the petitioner could not point out any illegality, perversity or infirmity in the orders passed by both the courts below.

10. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, the same is dismissed.

May 05, 2016
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(JASPAL SINGH)
JUDGE