

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-24837 of 2011 (O&M)
Date of Decision: March 16, 2016

Sardara

...Petitioner

VERSUS

Vishnudatt and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Surender Saini, Advocate
for the petitioner.

Respondent No.1 since dead.

Mr.Mohinder Nain, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the order dated 27.01.2010 passed by learned Chief Judicial Magistrate, Sonapat, vide which complaint No.330 dated 01.06.2009 filed by the petitioner titled as 'Sardara Singh vs. Vishnudatt and others was dismissed and the order dated 10.05.2010 passed by learned Addl. Sessions Judge, Sonapat, whereby the revision filed by the petitioner was dismissed.

Notice of motion was issued and learned counsel for respondents No.2 and 3 appeared and contested the petition.

I have heard learned counsel for the parties and have

gone through the record.

From the record, I find that a complaint was filed by Sardara against Vishnudatt, Zile Singh and Raj Kuimar under Sections 420, 465, 471, 506 and 120-B IPC. Learned CJM, Sonapat, after discussing the preliminary evidence, dismissed the complaint vide impugned order dated 27.01.2010. A revision was filed by the petitioner, which was also dismissed by learned Addl. Sessions Judge, Sonapat vide impugned order dated 10.05.2010. Aggrieved from the above-said orders, present petition has been filed.

As per the averments in the complaint, the complainant entered into agreement to sell the land measuring 44 kanals 8 marlas with accused No.1 namely Vishnudatt and also paid ₹ 6 lacs i.e. ₹2 lacs on 10.10.2006 and ₹4 lacs on 11.10.2006 as earnest money. As per the averments in the complaint, accused No.2 Zile Singh induced the complainant to enter into agreement to sell. It is further stated that sale deed, which was to be executed on 09.02.2007 was not executed. The complainant enquired about the ownership of the agricultural land, which was found to be owned by Shamlat Thola Hirde Chalu in Chalu Panna. It is also stated that even Sadhu Ram and Dhanna Singh etc. were not in the cultivation possession of the said agricultural land. It is also the averment in the complaint that accused No.1, at the time of entering into the agreement with the complainant, has stated that Sadhu Ram and Dhanna Singh are the owners and they have entered into agreement to sell with accused No.1.

At the time of arguments, it is admitted that accused No.1 Vishnudatt has already died. It is also admitted that accused No.2 and 3 i.e. respondents No.2 and 3 Zile Singh and Raj Kumar respectively are the attesting witnesses on the agreement to sell.

Keeping in view the fact that present respondents No.2 and 3 namely Zile Singh and Raj Kumar are only the attesting witnesses, therefore, they are only to identify the parties. It is not the case of impersonation. The amount has been paid to accused No.1 by the complainant. The agreement was also executed with accused No.1. Even as per the averments of the complaint, not even a single penny was paid to Zile Singh and Raj Kumar nor there is any allegation that they are in any way related to accused No.1.

From the averments of the complaint as well as from the evidence as discussed by learned Court below, there are no sufficient grounds for summoning respondents No.2 and 3. The complainant has only examined himself CW-1 and his son as CW-2. There is no other evidence to show that these respondents No.2 and 3, in any way, cheated the complainant or they have intention to cheat from the very beginning. They are only the attesting witnesses.

After perusal the order dated 27.01.2010 passed by learned CJM, Sonapat and the order dated 10.05.2010 passed by learned Addl. Sessions Judge, Sonapat dismissing the revision, I find that the orders passed by learned Courts below are not illegal or perverse or against the evidence and law. In no way, passing of impugned orders, amount to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

March 16, 2016
Vgulati

(INDERJIT SINGH)
JUDGE