

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : March 04, 2016

(1) CRM No.M-25461 of 2013

Jagjit Singh Marwaha

..Petitioner...

versus

Neeta Sood

...Respondent...

(2) CRM No.M-33913 of 2013

Sushil Kumar

...Petitioner...

versus

Neeta Sood

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Madan Gupta, Advocate,
for the petitioner(s).

Mr. Malkiat Singh Mohali, Advocate,
for the respondent.

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?

JASPAL SINGH, J.

By this common order, this Court intends to dispose of two petitions i.e CRM No. M-25461 of 2013 filed by ***“Jagjit Singh Marwaha vs. Neeta Sood”*** and CRM No. M-33913 of 2013 filed by ***“Shushil Kumar vs. Neeta Sood”*** as these petitions are outcome of the one and the same complaint (Annexure P-1) and summoning order

dated 15.06.2012 (Annexure P-2) vide which, petitioner(s) was/were summoned for the commission of offences under Sections 365 and 120-B IPC.

3. The facts giving rise to the instant petition are that respondent-complainant entered into an agreement of sale in favour of the petitioners namely Jagjit Singh Marwaha and Amandeep Singh to sell a plot for a consideration of Rs.16.80 lacs and executed an agreement of sale on 24.08.2005 which was reduced in writing on the receipt of earnest money of ₹2 lacs out of total sale consideration. The date stipulated for the execution and registration of sale deed was fixed as per the terms of the compromise on or before 05.11.2005. Subsequently, the date for execution and registration of sale deed was extended up to 25.11.2005 vide endorsement dated 03.11.2005. Thereafter, the respondent applied for permission to transfer the plot with Haryana Development Authority in favour of the petitioners, which was accorded vide letter dated 10.11.2005. Since, intention of respondent-complainant was to cheating and defraud the petitioners, she did not execute the sale deed as per the terms and conditions of the agreement of sale, the petitioners got registered an FIR No. 64, dated 09.02.2006 (Annexure P-7) under Sections 420, 506, 120-B IPC, Police Station Thanesar. However, after the registration of the aforesaid FIR, a compromise was arrived at between the parties at Kurukshetra, vide which, the respondent agreed to pay a sum of ₹6.5 lacs in lump

sum which was reduced into writing on 17.06.2006. At the time, respondent furnished 5 drafts of ₹40,000/- of dated 17.06.2006 totaling ₹2 lacs, got prepared by her from PNB, Morinda but she failed to make the payment of sum of ₹4.50 lacs regarding which the petitioners were constrained to knock the doors of the Civil Court by way of instituting a suit for recovery which was admittedly decreed. No appeal etc. was filed by respondent-complainant challenging the aforesaid judgment and decree for recovery and the said judgment become final and collusive. After the registration of the criminal case referred to above, the respondent-complainant preferred an application under Section 438 of the Cr.P.C. seeking pre-arrest bail relying upon the compromise dated 15.06.2006 (Annexure P-8) which was allowed by the Additional Sessions Judge, Kurukshetra vide order dated 26.07.2006 (Annexure P-10) . Subsequent thereto, with an ulterior motive as well as to cause harassment to the petitioners and to delay and defeat the payment of ₹4.50 lacs as agreed by respondent, she lodged a false and frivolous complaint before Additional Chief Judicial Magistrate, Rupnagar against the petitioners under Sections 364-A, 342, 347, 348, 506, 120-B, 364 and 149 IPC in the year 2010 in which the petitioners have been summoned to face trial, which necessitated the filing of the instant petition.

4. At the very outset, it would be pertinent to mention that all the facts referred to above are undisputed. As far as the compromise in

between the parties dated 15.06.2006 (Annexure P-8) is concerned, that has been admitted even in reply to the petition bearing CRM-M-25461 of 2013 in the shape of affidavit of Neeta Sood, in which, it has been submitted that though compromise has been effected but the payments and cheques have been made under threats in the premises of police Station Thanesar Kurukshetra. But one thing is evident that the execution of compromise dated 15.06.2006 has been admitted in pursuance of which 5 cheques of ₹40,000/- each dated 17.06.2006 were handed over to the petitioners, which have already been encashed by the petitioners.

5. During the course of arguments in the instant petition, learned counsel for the respondent-complainant has denied the facts and alleged that the compromise is the result of pressure and coercion.

6. But to the utter surprise not even a slightest reference in respect of the compromise dated 15.06.2006 (Annexure P-8) was given in the complaint in which the petitioners have been summoned to face trial. The respondent-complainant while lodging complaint (Annexure P-1) has concealed and suppressed all the material facts and it can be safely concluded that she did not approach the court with clean hands for the reasons close to her chest. The respondent is not only guilty of suppression of facts but has also succeeded in getting the summoning order issued by misrepresenting the facts before the Id. Magistrate.

7. Thus, this Court is of the considered view that the

complaint as well as summoning order are liable to be set aside being against the actual facts. It is well settled that a person, who approaches the Court with grubby hands, is not entitled to any relief much less the discretionary relief. The instant complaint is nothing but an abuse of the process of Court and the same appears to have been filed with an ill motive and the same can be said to be actuated with malice just to cause harassment to the petitioners as well as to delay and defeat the recovery of the amount agreed between the parties.

8. In the light of what has been discussed above, this Court is of the considered view that the impugned complaint as well as summoning order dated 15.06.2012 and subsequent proceedings are not sustainable and as such the same are quashed qua the petitioner(s) by way of acceptance of instant petition(s).

March 04, 2016
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(JASPAL SINGH)
JUDGE