

228 (2)
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-29202 of 2013 (O/M)
Date of decision : 30.5.2016

Amrik Singh and another Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. P.S. Ahluwalia, Advocate, for the petitioners.

Mr. P.S. Paul, Deputy A.G. Punjab.

Mr. A.P.S. Shergill, Advocate, for respondents No. 2 and 3.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

:-

:-

KULDIP SINGH J. (ORAL)

The present petitioners seek quashing of FIR No. 181, dated 13.7.2013, registered under Sections 420, 406 IPC read with Section 120-B IPC at Police Station Patran, District Patiala (Annexure-P-1), alongwith all the subsequent proceedings arising therefrom.

It is the case of the respondents/complainants, namely, Satnam Singh and Gurnam Singh, wherein they claim that the present petitioners, namely, Amrik Singh and Gurdeep Singh had entered into a agreement of sale dated 1.10.2012 (Annexure-P-2) with Satnam Singh and Gurnam Singh (complainants) to sell their land measuring 25 kanals 10 marlas, situated in village Rasoli, Tehsil Patran, District Patiala, at the rate of Rs. 23.90 lacs per acre. Rs. 5 lacs were paid as earnest money and the sale deed was to be executed on 10.12.2012. The complainants thereafter came to know i.e.

CRM No. M-29202 of 2013 (O/M)

- (i) that the accused have already entered into an agreement of sale with some other persons ;
- (ii) that the measurement of land at the spot is less ; and
- (iii) that the land also comes in river Ghaggar and road.

Therefore, according to the allegations made in the complaint dated 27.12.2012, the complainants have been cheated.

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

The allegations reiterated above clearly shows that there are three allegations i.e. (i) execution of prior agreement in favour of some other persons; (ii) the measurement of land being less at the spot; and (iii) the land comes in river Ghaggar and road and these facts are stated to have been concealed.

The police proceedings shows that it is claimed that the present accused had entered into an agreement with some other persons on 28.2.2006. It is not claimed that a civil suit for enforcement of the said agreement has been filed and on the date when the present agreement was entered, the civil suit to enforce the said agreement had already become time barred. Therefore, the said agreement had become useless. Regarding the area being less at the spot, the buyers are required to pay only for the actual area, purchased by them. The fact whether the land falls in river Ghaggar and the road could also have been verified and the complainants should have refused to purchase the said land. It is not a case of the complainants that they were ready to purchase the remaining land, but the accused did not execute the sale deed. It was simply after the agreement of sale dated 1.10.2012 that they lodged the complaint with the police on 27.12.2012,

CRM No. M-29202 of 2013 (O/M)

-3-

claiming that they have been cheated. However, they don't claim that on 10.12.2012, they had appeared before the Sub Registrar concerned to execute the sale deed. Therefore, basically, it is a civil dispute. No offence under Sections 420, 406 IPC read with Section 120-B IPC is made out. Hence, the FIR No. 181, dated 13.7.2013, registered under Sections 420, 406 IPC read with Section 120-B IPC at Police Station Patran, District Patiala (Annexure-P-1), alongwith all the subsequent proceedings arising therefrom stand quashed.

The learned counsel for the complainants has relied upon the authority of this Court in Gagandeep Versus State of Punjab, (arising out of CRM-M-5981-2012, decided on 17.6.2014) wherein it is stated that during the pendency of the petition, if any proceeding takes place and the same is not challenged, the FIR could not be quashed.

The perusal of the petition shows that the present petition was filed on 21.8.2013 and as per the stand of the State, the charges against the accused were framed on 16.10.2013 i.e. during the pendency of the present petition. Therefore, any proceeding, which takes place during the pendency of the petition, will be bound by the decision of the case.

The present petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

30.5.2016
sjks