

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-28647 of 2014 (O&M)

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Date of decision:22.1.2016

Kanwar Pal

.....Petitioner

v.

Pritam Singh

.....Respondent

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Moti Lal Saini, Advocate for the petitioner.

Mr. Gourave Bhayyia, Advocate for the respondent.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the impugned order and charge-sheet dated 21.9.2013 (Annexure-P.7) passed by the learned Chief Judicial Magistrate, Ambala, whereby charge for the offence under Section 406 IPC has been framed against the petitioner as well as impugned judgment dated 8.7.2014 (Annexure-P.9) passed by the learned Sessions Judge, Ambala, whereby the criminal revision petition filed by the petitioner has been dismissed.

Notice of motion was issued in this case. Mr. Gourave Bhayyia, learned Advocate has put in appearance on behalf of the respondent and contested this petition.

I have heard learned counsel for the petitioner as well as

learned counsel for the respondent and have gone through the record.

Firstly, it is settled law that at the time of framing of the charge, the Court is to see only whether *prima facie* case is made out or not. It is now settled law that while framing charge in the complaint case also the Court is to see only *prima facie* case and the Court is not to see whether the evidence produced by the complainant is sufficient for conviction of the accused.

The learned Chief Judicial Magistrate, Ambala vide order dated 21.9.2013 found *prima facie* case made out from the evidence and charge-sheet was served upon the accused for the offence under Section 406 IPC. A perusal of the record also shows that Pritam Singh-complainant filed the complaint against Kanwar Pal and Smt. Kirna Devi for the offences under Sections 420 and 406 IPC read with Section 120-B IPC. A perusal of the complaint shows that accused No.1 Kanwar Pal entered into an agreement to sell land measuring 7 Kanals 17 Marlas being 1/4th share out of land measuring 31 Kanals 9 Marlas for ₹2,50,000/-. It is also the case that when the sale deed was not executed, then the complainant filed the suit in which the injunction was also granted. It is also the case in the complaint that accused No.1 knowingly fully well secretly and stealthily executed the sale deed in favour of Smt. Kirna Devi, who has not been summoned in the case.

At the time of arguments, it is brought to my notice that the trial is already complete and it is fixed for defence evidence.

Learned counsel for the respondent argued that he has produced the revenue record and has also examined the revenue officials before the

trial Court. Though, some documents have been placed along with this petition for quashing of the revenue record, but the findings can be given only by the trial Court on the basis of evidence produced before it, whether the accused has any other land than he agreed to sell to the complainant etc. ₹2 Lakhs as earnest money has already been stated to be received by the accused.

As already discussed, the Court at the stage of framing of charge, is only to see whether a *prima facie* case is made out or not and even strong suspicion is sufficient to frame the charge. Therefore, from the record, at this stage, in no way, it can be held that no charge is made out and it is case of civil nature. Further more, against the order of framing of the charge, remedy lies by way of criminal revision and criminal revision has already been dismissed by the learned Sessions Court. In no way, it can be held that the orders passed by the Courts below are illegal on the face of it and amount to abuse of the process of law or amount to miscarriage of justice.

Therefore, from the above discussion, finding no merit in this petition, the same is dismissed.

January 22, 2016.

(Inderjit Singh)
Judge

hsp