

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 31536 of 2016

Date of decision: 7.11.2016

Amar singh

Petitioner

vs.

State of Punjab and anr

Respondent

Present: Mr. HS Baath, Advocate.

M.M.S.BEDI,J.

The petitioner is a complainant in a private complaint, who is aggrieved by order dated 8.5.2016 passed by Judicial Magistrate Ist Class, Moga dismissing the complaint filed by him after going through the pre-charge evidence produced. A revision petition, filed against the said order , has also been dismissed on 14.6.2016 by the Sessions Court.

Counsel for the petitioner has submitted that on the basis of an agreement of sale dated 28.2.2006 it was agreed in presence of Sikander Singh and Bajrang Kumar, attesting witnesses, that the sale consideration would be Rs.10.30 lacs per acre. Counsel further submits that a sum of Rs. 3.00 lacs has been returned to the complainant but the remaining sum of Rs.3.00 lacs, which was paid to the private respondents has not been returned, which tantamounts to misappropriation of the property and is also an act of cheating.

I have heard counsel for the petitioner and gone through the orders passed by the Judicial Magistrate Ist Class Moga as well as the revisional court and with the assistance of counsel for the petitioner gone through the statement of the complainant, his nephew Jaswant Singh CW

2, Gurmukh Singh CW3, Jaspreet Singh CW 4 and Lakhwinder Singh CW 5. The courts below have taken into consideration the statement of Jaswant Singh CW 2 to arrive at a conclusion that the said courts had got no jurisdiction to try the offence as the occurrence had taken place at Village Patti Mutani, which falls under the jurisdiction of Ludhiana and no jurisdiction vests in the Courts at Moga. The Courts below have also taken into consideration statements of Gurmail Singh, Jaswant Singh and Jaspreet Singh. Statement of Gurmukh Singh was discarded as his cross-examination could not be completed. Testimony of Gurmail Singh PW has not been believed on the basis of he being an interested and related witness. Taking into consideration the ingredients of Section 405 IPC, the learned Sessions Court has arrived at a conclusion that the evidence brought on the record is not sufficient enough to establish dishonest misappropriation or misappropriation of any property. The orders passed by the Courts below are speaking orders, resulting in the discharge of the private respondents. Even on re-appreciation of evidence, I do not find any ground to interference in the orders passed by the courts below.

Dismissed.

November 7 ,2016
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No