

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 203

Criminal Miscellaneous No.M-35480 of 2016 (O & M)
Date of Decision: November 30, 2016

Rajinder Kaur

..... PETITIONER

VERSUS

State of Haryana & another

..... RESPONDENT

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Aashna Gill, Advocate, for the petitioner.

Ms. Neelam Kashyap, Deputy Advocate General,
Haryana.

Mr. Ramandeep Singh Pandher, Advocate, for
respondent No.2 - complainant.

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Jaspal Singh, J

1. This is a petition under Section 438 Cr.P.C., preferred by the petitioner seeking pre-arrest bail in case FIR No.218 dated July 21, 2016, under Sections 420, 467, 471, 506, 120-B IPC, registered at Police Station, City, Mandi Dabwali, District Sirsa.

2. The instant case was registered on the basis of statement of Durga Wati – respondent No.2 to the effect that she has been cheated by the petitioner and her husband Paramjit Singh. She had entered into an agreement to sell dated June 22, 2015 in favour of Paramjit Singh, husband of petitioner, pertaining to 24 kanals of land out of total land measuring 99

kanals 6 marlas comprised in Khewat No.286, Khatauni No.490. Date for execution of sale deed was fixed as August 21, 2015. An amount of ₹ 30 lac was received by husband of petitioner – Paramjit Singh on June 22, 2015. Subsequently, the date for registration of sale deed was postponed to September 22, 2015 and April 08, 2016, but sale deed was not executed. In the interregnum, ₹ 15 lac more had been received by Paramjit Singh. Later on, complainant came to know that Paramjit Singh had transferred the land in favour of his wife – petitioner vide release deed No.1130 dated July 03, 2015 and mutation No.2527 dated July 08, 2015 had also been entered and sanctioned. In this way, the complainant has been cheated by the petitioner and her husband.

3. Learned counsel for the petitioner has contended that no criminal offence is made out. It is a matter of civil dispute. At the most, complainant could file a civil suit for specific performance or recovery suit. The complainant has abused the process of law by setting in motion criminal proceedings. Petitioner is aged about 60 years and suffers from serious ailments. The petitioner is ready to join investigation and to abide by all the terms & conditions imposed upon her in case she is released on bail.

4. Per contra, learned counsel for the State assisted by the counsel for the complainant has contended that petitioner and her husband had intention to cheat the complainant. They have duped the complainant of ₹ 45 lac. The aforesaid amount is yet to be recovered from the accused. Their custodial interrogation is necessary.

5. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record.

6. The complainant entered into an agreement of sale dated June 22, 2015 pertaining to land measuring 24 kanal out of total land measuring 99 kanal 6 marlas, in favour of Paramjit Singh, husband of petitioner. Sale deed was not effected, however, a sum of ₹ 45 lac had been received by him. Moreover, Paramjit Singh transferred the land in the name of his wife. Complainant had to approach the court of competent jurisdiction by way of instituting a private complaint and only then, FIR was ordered to be registered under Section 156(3) Cr.P.C. Petitioner and her husband, with an intention to cheat the complainant, entered into an agreement to sell and thereafter, in connivance with each other, cheated the complainant of ₹ 45 lac. It is well settled that civil and criminal proceedings can go side by side. This Court is of the considered view that custodial interrogation of petitioner is necessary to unearth all the ramifications involved in the instant case. Moreover, huge amount is also to be recovered and husband of petitioner has not yet been arrested.

7. In the light of what has been discussed above, this Court does not find any ground to exercise its power envisaged under Section 438 Cr.P.C. The petition is accordingly dismissed.

November 30, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No