

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-42757 of 2015 (O&M)
Date of Decision: February 29, 2016

Arun Khanna

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Angel Sharma, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of the order dated 06.02.2014 passed by learned Chief Judicial Magistrate, Panipat, whereby request for sending the complaint to police under Section 156(3) was declined and judgment dated 05.10.2015 passed by learned Addl. Sessions Judge, Panipat, whereby revision filed by the petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Arun Khanna filed a complaint against Shiv Kumar Yadav under Section 156(3) Cr.P.C. for registration of FIR under Sections 406, 419, 420, 467, 468, 471 and 506 IPC. It is stated in the complaint that land measuring 3 bigha and 16 biswa was owned and possessed by the complainant since 1972.

In the month of June, 2010, the accused approached the complainant and represented himself to be a property dealer and induced and deceived the complainant to sell the aforesaid land at a good price. It is also in the complaint that accused through inducement and deceiving, got the sale deed registered in the name of different person from complainant out of the aforesaid land in the shape of plots but now the complainant came to know that the accused has committed the fraud and cheating with the complainant in almost every sale deed. The accused represented himself as an authorized person or General Power of Attorney of complainant and also as owner of the said land to the purchasers of the plots and executed agreement to sell with intended purchasers and took the earnest money from them but he (accused) has never handed over the said amount to the complainant. The accused never showed or conveyed the details of the agreements to the complainant with the sole intention to hide the actual sale consideration and to pocket the difference in sale amount by cheating and playing fraud with the complainant.

Learned Addl. CJM, Panipat, vide order dated 06.02.2014, on presentation of complaint, passed order that request has been made for sending the complaint under Section 156(3) Cr.P.C. for investigation and registration of FIR. After hearing and perusing the record, it is held that as per complainant, he moved application to the police but police did not take any action. The Court passed the order after going through the complaint and documents that it did not deem fit to send the complaint under Section 156(3) Cr.P.C. and hence, the

request was declined and the case was fixed for preliminary evidence for 06.03.2014.

Against the order dated 06.02.2014, a revision petition was before Sessions Court and learned Addl. Sessions Judge, Panipat, dismissed the revision petition vide impugned judgment dated 05.10.2015.

Aggrieved from the above-said order and judgment, present petition has been filed.

The perusal of the impugned judgments passed by the Courts below nowhere show that any illegality has been committed. The Magistrate has discretion either to send the complaint to the police station under Section 156(3) Cr.P.C. or he/she can take the cognizance. The Court is only to see whether the facts of the case require investigation by the police or complainant can adduce the evidence before the Court and can prove the version.

Further, I find that it is not necessary to give reasoning or to pass detailed order while dismissing the request under Section 156 (3) Cr.P.C. The Magistrate is only required to apply judicial mind. It is written in the order that Magistrate has heard and perused the request and request was declined.

From the averments of the complaint, I find that complainant can prove the case and police investigation, in no way, can be held as essential in the facts and circumstances of the present case. In no way, it can be held that the order and judgment passed by the Courts below are illegal or amount to miscarriage of justice. The

order and judgment passed by the Courts below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

February 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE