

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-43709 of 2015 (O/M)
Date of decision : 1.2.2016

Mandeep Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ajaivir Singh, Advocate, for the petitioner.

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 ?

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KULDIP SINGH J. (ORAL)

Learned counsel for the petitioner has filed Power of Attorney on behalf of the petitioner in Court today, with no objection from the earlier counsel, who had filed the petition.

Impugned in the present petition is the order dated 9.9.2015 (Annexure-P-3), passed by the learned Additional Sessions Judge, Jalandhar, vide which the order dated 18.1.2014 (Annexure-P-2), passed by the learned Judicial Magistrate 1st Class, Jalandhar, summoning respondent No. 2 as an accused in the criminal complaint, was set aside.

Brief facts of the case are that the present petitioner filed a criminal complaint under Sections 420,406,467,468,471 and 120-B IPC against Ravneet Pal Singh and Rupinderjit Kaur, daughter of

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Gurmit Singh. It was alleged that Ravneet Pal Singh entered into an agreement of sale dated 19.7.2011 in favour of the petitioner for sale of land measuring 32 kanals 5 marlas, situated at village Jalowal, Hadbast No. 99, Tehsil Bhogpur. Accused Rupinderjit Kaur was also present there. Rs. 55 lakhs were paid as earnest money to accused No. 1 Ravneet Pal Singh and got the agreement executed. As per the terms and conditions of the agreement, amount of Rs. 95 lakhs per acre was fixed for the land adjoining to the road and Rs. 60 lakhs for the other land. The date of execution and registration of sale deed was mentioned as 28.2.2013 i.e. after about 1 ½ years. It is further alleged that accused No. 1 had stated that his brother Rajan Pal has executed one un-registered Will in his favour and he has become exclusive owner of the said property. Accused No. 2 was also present there at that time and she also gave assurance with regard to the genuineness of the said Will. But, on 26.2.2013, when the complainant obtained the copy of fard jamabandi from Halqa Patwari, then he came to know that the land has been sold to some third person. On 28.2.2013, when the petitioner appeared before the Sub Registrar concerned for execution of sale deed, accused No. 1 did not appear.

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

The perusal of the order of the revisional court shows

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that accused No. 2 was stated to be present there and merely on that basis, she cannot be summoned.

The learned counsel for the petitioner has stated that when Rs. 55 lakhs were paid as earnest money, no document of title was checked. The copy of jamabandi for the year 2006-07 produced in Court today, during arguments, shows that all the sales were made in the year 2012 i.e. after the execution of the agreement. Therefore, I agree with the view of the revisional court that no case is made against accused No. 2, namely, Rupinderjit Kaur. The copy of jamabandi for the year 2006-07 shows that sales were made out after the date of execution of the agreement of sale. It shows that at the time of agreement of sale, there was no intention to cheat. The un-registered Will itself, even if alleged, does not confer any title, unless authenticated by the Court. The offence of cheating is made out if the accused had an intention to cheat from the very beginning. If subsequently, accused turned dis-honest, Section 420 IPC is not attracted. Here, the remedy lies in a suit for specific performance against proposed vendor and the subsequent vendee on the basis of prior agreement of sale. Therefore, there is no illegality or infirmity in the impugned order dated 9.9.2015 (Annexure-P-3), passed by the learned Additional Sessions Judge, Jalandhar. Hence, the present

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petition is dismissed.

1.2.2016
sjks

(KULDIP SINGH)
JUDGE