

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-8355 of 2016

.....

Date of decision:29.3.2016

Dewanti

...Petitioner

v.

Rai Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Pankaj Bali, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for quashing of the impugned order dated 11.1.2016 (Annexure-P.3) passed by learned Additional Sessions Judge, Karnal in criminal revision No.110 dated 19.2.2015 by which the well reasoned order passed by learned Judicial Magistrate Ist Class, Assandh dated 10.7.2015 (Annexure-P2) has been set aside.

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

From the record, I find that Dewanti-complainant filed complaint against Rai Singh etc. 16 respondents for the offences under Sections 420, 467, 468, 471, 506 read with Section 120-B IPC.

The brief facts as stated in the complaint and noted in the

judgment dated 4.5.2015 passed by learned Judicial Magistrate Ist Class, Assandh, are as under:-

“The complainant has submitted that she is recorded owner in possession over the land as detailed in para No.2 of the plaint. On 16.9.2012, accused came to Village Munak and asked complainant that they are going to partition the suit land. The complainant told them that her husband Partap Singh has been taken to PGI Rohtak and her son accompanied him. Accused assured complainant that the partition proceedings would take only two hours. Accused took complainant who is an illiterate lady on 16.9.2012 and retained her in Village Ardana where she was not allowed to talk with any person. On 17.9.2012, they took her in Tehsil and her photographs were taken on the pretext that same are necessary for partition proceeding. The thumb impressions of complainant were taken on the seat of Notary Public, Assandh and the documents were got prepared by accused persons in collusion with each other and same were never read to her. The deed writer did not read the document to complainant on which her thumb impressions were obtained. The thumb impressions of complainant were also obtained on the pretext of partition proceedings. Thereafter, complainant came to her village and enquired about partition proceedings from accused several times. But accused postponed the matter on one pretext or other. The complainant told her son about

partition proceeding. Her son enquired about partition from accused and accused assured that the proceeding would take time. The complainant along with her son went to Tehsil where they enquired about partition proceeding in October 2012 but concerned Tehsildar did not give any satisfactory reply. Later on it was revealed that accused persons illegally and wrongly on the instance of partition got executed a release deed in their favour and a fraud was committed upon complainant. After coming to know about said fact complainant went to Halka Patwari and requested him not to enter the mutation but Halka Patwari and Tehsildar in collusion with accused persons got entered a mutation on the basis of release deed. The mutation is totally null and void as the complainant did not execute any release deed in favour of accused and accused has obtained her thumb impressions on the same by playing fraud upon her. Complainant requested accused several time to get cancel the release deed but accused refused to admit her genuine claim. Constrained by these circumstances, complainant has filed the present complaint.”

After the preliminary evidence, the trial Court summoned accused No.1 to 15 only for the offences under Sections 420, 506 read with Section 120-B IPC and found that no *prima facie* offences punishable under Sections 467, 468 and 471 IPC are made out against any of the accused.

Aggrieved against this order dated 10.7.2015 passed by learned

Judicial Magistrate Ist Class, Assandh, criminal revision petition was filed by the accused-respondents before the learned Sessions Judge, Karnal. The learned Additional Sessions Judge, Karnal, vide order dated 11.1.2016 accepted the criminal revision and set aside the order passed by the learned JMIC.

I have gone through the order passed by the learned lower Courts. The learned Additional Sessions Judge, Karnal, passed the order by discussing the evidence and the averments of the complaint and also the order of the learned JMIC. The order of the learned JMIC shows that he has not applied his judicial mind and has passed the summoning order in routine. From the evidence, learned Additional Sessions Judge has correctly held that the transfer deed was got registered before the Sub Registrar and it has been drafted by an Advocate Shri Balihar Singh Virk. Neither Balihar Singh Virk, Advocate was made an accused in this case nor he was examined as a witness to show that this transfer deed after scribing was not read over to the complainant. Balihar Singh Virk, Advocate was the important witness, who is to tell whether this transfer deed was got scribed by the complainant or not. In other words, he has to tell on whose instructions this transfer deed was scribed. The learned Additional Sessions Judge, Karnal, has correctly held that the transfer deed was duly thumb marked by the complainant. It was scribed by the Advocate and attested by the witnesses and was duly registered before the Sub Registrar and photographs were taken at that time. Only in view of the statement of the complainant that she is illiterate lady and a fraud had been played and

instead of getting land partitioned, they got the transfer deed executed cannot be believed. A perusal of the record also shows that there is no corroborative evidence to support and corroborate the version of the complainant. Otherwise also, in the complaint the complainant nowhere has stated that the transfer deed had been executed in favour of her nephew etc. and the some accused are her close relatives. She has mentioned them only as co-sharers. Further more, the Court in this case has also called the report under Section 202 Cr.P.C. in which the Police after investigation of the matter has found that the relinquish deed was executed by the complainant without any pressure and no fraud was played upon her. The JMIC had also not considered these facts while summoning the accused. Therefore, the order dated 11.1.2016 passed in the revision petition by the learned Additional Sessions Judge, Karnal, is correct as per evidence and law. No illegality has been committed nor, in any way, it amounts to miscarriage of justice. Therefore, the order dated 11.1.2016 passed by the learned Additional Sessions Judge, Karnal is correct as per law and the same is upheld.

Finding no merit in the petition, the same is dismissed.

March 29, 2016.

(Inderjit Singh)
Judge

hsp