

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.1344 of 2016

.....

Date of decision:27.7.2016

Gulbahar

...Petitioner

v.

Dayawanti

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Pawan Kumar Hooda, Advocate for the petitioner.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 22.1.2016 passed by learned Additional Sessions Judge, Panipat, vide which the appeal filed by Dayawanti against State of Haryana against the judgment of conviction dated 7.10.2014 and order of sentence dated 9.10.2014 passed by learned Chief Judicial Magistrate, Panipat, convicting the appellant/accused (respondent herein) for the offence under Section 420 IPC and sentencing her to undergo rigorous imprisonment for one year and to pay a fine of ₹1,000/- and in default of payment of fine to further undergo simple imprisonment for 10 days, has been allowed and the above judgment of conviction and order of sentence have been set aside. The appellant-accused/respondent has been acquitted of the charge for which she was

facing trial.

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

From the record, I find that challan was presented against Dayawanti in FIR No.476 dated 13.8.2004 registered for the offences under Sections 420, 467, 468 and 471 IPC at Police Station City Panipat. The brief facts of the prosecution case as noted down by the learned Chief Judicial Magistrate, Panipat, in her judgment dated 7.10.2014 are as under:-

“Brief facts of the prosecution case are that on 13.5.2004, a complaint was received in the Police Station City, Panipat where it was stated by the complainant Gulbahar that minor son of accused Dayawanti is owner in possession of a house measuring 100 sq. yards which is 2/84 share of khasra no.1705 (4B-4B) situated at Taraf Insar, Batra Colony, Panipat in which four rooms, one shop and boundary walls have been constructed. The accused Dayawanti, on behalf of her minor son, entered into an agreement to sell out of the property for a sum of rupees 1,37,000/-. An amount of rupees 37,000/- was paid as earnest money to the accused on 05.09.2003 and the date for execution of the sale deed was fixed as 15.04.2004, on receipt of the remaining sale consideration. It was agreed that in case, she fails to get the sale deed executed, the accused shall be liable to pay double the amount of earnest money and it was further agreed that in the meantime, the accused shall also seek

[3]

permission from the Court to get the sale deed executed. The possession of one room and one shop was given on the same day i.e. the date on which the agreement was executed and earnest money was paid. The complainant went to the Tehsil premises in the morning at 09:00 a.m. along with remaining sale consideration, but the accused did not turn up. Thereafter, she got her presence marked. Later on, it was found that disputed property was in the name of her children Rakesh Kumar and Dinesh, but this fact was not disclosed by the accused and she entered into an agreement to sell the property. Legal notice was served upon the accused calling upon her to get the sale deed executed or to pay the double amount of the earnest money but to no avail. Hence, the complaint.”

The learned Chief Judicial Magistrate after appreciating the evidence convicted the accused/respondent under Section 420 IPC and sentenced as mentioned above. Aggrieved from this judgment, an appeal was filed before the Sessions Court and the learned Additional Sessions Judge, Panipat, vide judgment dated 22.1.2016 accepted the appeal and acquitted the appellant-Dayawanti. Aggrieved from this judgment, now the present criminal revision petition has been filed by the complainant-petitioner.

I have gone through the record specially the judgments passed by the Courts below. From the record, I find that the judgment passed by the learned Additional Sessions Judge is correct as per evidence and law. The evidence has been appreciated in right perspective. Nothing has been

[4]

pointed out as to which material evidence has been misread by the appellate Court and which material evidence has not been considered by the Court. The learned Additional Sessions Judge has discussed the evidence and the averments in the complaint etc. and has held that there is nothing on record to show that from the very beginning the intention of the accused/respondent was to cheat the complainant/petitioner. The complainant has mentioned this fact that the minor is the owner of the property and the accused has also applied to Guardian Judge for permission to sell the property of the minor. The case of the accused before the learned appellate Court was that as the minor has become major during the proceedings, so the proceedings have been withdrawn from the Court of Guardian Judge. The learned counsel for the present revision petitioner has failed to show me that from the very beginning the intention of the accused/respondent was to cheat the complainant/petitioner. Rather, the evidence on record shows that the accused applied for permission to sell the property of the minor.

Therefore, from the above discussion, I find that the judgment passed by the learned Additional Sessions Judge, Panipat, is correct as per evidence and law and does not require any interference from this Court and the same is upheld.

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

July 27, 2016.

(Inderjit Singh)
Judge

hsp

[5]

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No