

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No.2905 of 2016 (O&M)
Date of Decision: August 19, 2016

Jaspal Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Chanderhas Yadav, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jaspal Singh under Section 401 Cr.P.C. against respondents State of Haryana and Karam Chand, challenging the impugned judgment of conviction dated 12.05.2014 and order of sentence dated 14.05.2014 passed by learned Judicial Magistrate Ist Class, Fatehabad, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of fifteen days under Sections 420, 467 and 468 IPC each and to undergo rigorous imprisonment for a period of one year under Section 471 IPC and also challenging the judgment dated 18.07.2016 passed by learned Addl. Sessions Judge-I, Fatehabad, vide which the appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

From the record, I find that complainant Karam Chand filed a

complaint against Jaspal Singh accused under Sections 420, 467, 468,

471/34 IPC. The brief facts of the complaint as noted down in the judgment passed by learned JMIC, Fatehabad, are as under:-

“2. Brief facts of the present complaint are that on 1.05.2008, the accused represented himself as owner of half share of land measuring 61 kanals 14 marlas bearing khasra No.26//12(8-0), 13(8-0), 14(8-0), 16/1(7-4), 17(6-0), 29//14(8-0), 15(7-10), 18(8-0) situated at village Mochiwala, Tehsil and District Sirsa by presenting jamabandi for the year 2003-04 to the complainant. He induced the complainant to purchase the aforementioned land. Accepting the accused as owner in possession of land measuring 30 kanal 17 marle as per the jamabandi for the year 2003- 04, the complainant entered into an agreement to purchase said land at the rate of Rs.5 lac per acre on 01.05.2008. An amount of Rs.7 lac as earnest money was paid by the complainant to the accused on 01.05.2008 in the presence of Mehar Chand Numberdar and Kamal Nain. It was agreed that on 30.3.2009 the complainant shall get execute and register the sale deed in his favour after paying the balance sale consideration and other charges. The agreement to sell dated 01.05.2008 was scribed by Madan Lal and at serial No.176 dated 01.05.2008 an entry in this respect exists in his register. On 16.3.2009, the date of execution and registration of sale deed was extended by the parties from 30.03.2009 to 15.09.2009. An agreement was got scribed in this regard from Madan Lal. On 14.9.2009, the date of execution and registration of sale deed was once again extended by both the parties. This agreement was also reduced to writing. The complainant visited the office of Sub-Registrar, Nathusari Chopta alongwith the balance sale consideration and registration charges on 10.11.2009, but, the accused did not turn up to get execute and register the sale deed. The complainant got attested an affidavit from Sub-Registrar, Nathusari Chopta in order to mark his attendance. As accused failed to get execute the sale deed in favour of the complainant, he decided to file civil suit against the accused and for this purpose he met Halqa Patwari and asked for the copy of jamabandi. He gave an application in this regard to Tehsildar. On his application, it was reported by Halqa Patwari that the land bearing khasra no.26//12, 13, 14, 16/1 and 17 does not exist at village Mochiwala and the land bearing khasra no.29//14, 15, 16 is not owned by Jaspal Singh. From this report the complainant came to know that the accused was not the owner of aforementioned land and he had no right to sell the same. However, with dishonest intention in order to cause wrongful loss to the complainant, the accused executed forge agreement to sell dated 1.5.2008 and obtained a sum of Rs.7,50,000/- from the complainant. In this manner, the accused committed an offence punishable under Sections 420, 467, 468, 471/34 of IPC. The complainant approached the

police officers and gave application, but no action was taken by the police. With these allegations, the present complaint has been filed by the complainant for taking legal action against the accused.”

Learned JMIC, Fatehabad, after appreciating the evidence in right perspective, held that as per the version of the complainant, accused represented himself as owner in possession of land measuring 30 kanal 17 marla situated at village Mochiwala. The complainant agreed to purchase the aforementioned land @ ₹5 lacs per acre. The agreement to sell was executed on 01.05.2008. The complainant examined attesting witnesses who proved the agreement to sell by deposing consistently. They also proved the fact regarding extension of the date of execution of the sale deed. The complainant deposed that accused produced jamabandi for the year 2003-04 to show his ownership and possession over the land measuring 30 kanal 17 marla. Further, the fact of making payment of ₹7,50,000/- as earnest money by the complainant to the accused has also been proved from the testimonies of PW2, PW3 and PW4. The fact that accused was not the owner of aforementioned land has been proved by PW5 Pawan Kumar. The report Ex.PW4/D clearly established that the land bearing khasra No.26//12,13,14,16/1,17 does not exist at village Mochiwala and Jaspal is not owner of land bearing khasra No.29//15, 14 and 18. This fact is further supported by the jamabandi for the year 2003-04 Ex.PW5/A in which, name of accused Jaspal does not find place in column of ownership and cultivation of land bearing khasra No.29//15, 14, 18. It has been proved by the complainant that accused was not the owner of land which he agreed to sell to the complainant. The jamabandi Ex.PW2/C was shown by the accused to the complainant at the time of execution of agreement to sell.

Learned Magistrate further held that the judgment passed by the Civil Court is not binding on the criminal Court. This finding of learned JMIC, Fatehabad is also correct and as per law. In the criminal case, the complainant has proved his case by leading cogent evidence beyond any reasonable doubt. The judgment passed by the Civil Court in civil proceedings is not binding upon the criminal Court. Furthermore, it is admitted at the time of arguments that appeal against the judgment passed by the Civil Court is pending before lower Appellate Court.

The findings given by learned JMIC, Fatehabad, are correct as per law and evidence. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings given by the Court below are perverse i.e. against the evidence. The findings have been given after correctly appreciating the evidence in right perspective. An appeal has been filed by the petitioner against the findings given by learned JMIC, Fatehabad and learned Addl. Sessions Judge, Fatehabad, dismissed the appeal vide judgment dated 18.07.2016. This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. The impugned judgments 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 revision petition, the same is dismissed.

August 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No