

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

CRM No.M-11539 of 2016 (O&M)

Date of Decision: May 03, 2017

Kanta Kataria

...Petitioner

VERSUS

Manju Garg and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.I.D.Singla, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 04.04.2015 passed by learned Judicial Magistrate Ist Class, Panchkula, vide which criminal complaint No.960 dated 03.04.2013 titled as 'Kanta Kataria vs. Smt.Manju Garg and others' filed by the petitioners under Sections 148, 149, 323, 379, 447, 448, 451, 506 and 120-B IPC, was dismissed and also the judgment dated 15.09.2015 passed by learned Sessions Judge, Panchkula, vide which the revision filed by the petitioner was also dismissed.

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

From the record, I find that Smt.Kanta Kataria complainant filed a complaint under Sections 148, 149, 323, 379, 447, 448, 451, 506 and

learned JMIC, Panchkula, are as under:-

“2. In nutshell, two different agreement to sell were executed on 22.09.2010 by the complainant in favour of the accused no.1 for sale of the flats owned by complainant. That accused No.1 paid Rs.6,20,000/- and Rs.6,00,000/- as earnest money and the date for execution of the deed of conveyance was fixed as 05.10.2010. That, thereafter, complainant many times requested the accused No.1 to pay balance sale consideration but accused No.1 put off the matter on one pretext or another. That ultimately 01.12.2011 was fixed for execution of transfer papers but on that date also accused No.1 was not having balance sale consideration, accordingly the deed of conveyance qua the flats was not executed on the aforesaid date also. That, thereafter, a legal notice was sent to the accused No.1 and 08.12.2011 was the date fixed for the execution of deed of conveyance but on that date also nobody turned from the side of accused No.1. That thereafter, complainant served a legal notice by which it was intimated to the accused No.1 that the earnest money paid by the accused No.1 has been forfeited. That on dated 08.01.2012 complainant was surprised to know that accused No.3 and 4 barged into the flats of complainant and they told the complainant that they were doing this at the instance of accused No.1 and accused No.2. That on this accused No.1 and 2 also reached at the flats and manhandled complainant and after fearing the threat to her life, complainant rushed from the said Society. Matter was reported to the police but to no avail. Hence, the present application.”

Learned JMIC, Panchkula, vide impugned order dated 04.04.2015 dismissed the complaint. A revision was filed by the petitioner and learned Sessions Judge, Panchkula, dismissed the same vide judgment dated 15.09.2015.

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

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

From the record, first of all, I find that only four accused are party in the present case, therefore, no case is made out under Sections 148

and 149 IPC. Furthermore, there is no medical evidence on record to prove any injury.

The report under Section 202 Cr.P.C. was called in which the police found that allegations levelled in the complaint are meritless and same are levelled against the accused persons just to pressurize them so that more money can be extorted from them. The main case is based upon the sale of flat and document regarding that sale has not been placed on record. Occurrence is stated to be held on 08.01.2012 but this complaint has been filed on 14.06.2013 and this delay has also not been explained. Learned Court below further held that neither any ocular nor any documentary evidence has been produced on the file, which can, in any way or manner, demonstrate that the accused persons were not having permission from the complainant at that time when they entered into the flats in question.

In no way, the order and judgment passed by the Courts below can be held as perverse or illegal. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below.

In view of the above discussion, I find that the order and judgment passed by both the Courts below, are correct, as per evidence and law and do not require any interference from this Court.

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

May 03, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No