

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

**CRM No.M-14270 of 2016 (O&M)
Date of Decision: February 15, 2017**

Satish Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Mr.Kuldeep Sharma, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Punit Malik, Advocate for
Mr.Pratap Singh, Advocate
for respondent No.2.

Mr.Rajinder Singla, Advocate
for respondents No.3 to 7 and 15.

Mr.Sanjiv Sharma, Advocate
for respondent No.8.

Mr.Rajiv Joshi, Advocate
for respondent No.9.

Mr.Sanjeev Majra, Advocate
for respondent No.10.

Mr.Kulvir Narwal, Advocate
for respondent No.13.

None for respondents No.11, 12 and 14.

INDERJIT SINGH, J.

quashing of order dated 17.02.2016 passed by learned JMIC, Kaithal, vide which the application under Section 319 Cr.P.C. filed by the petitioner was dismissed and also the judgment dated 15.03.2016 passed by learned Addl. Sessions Judge, Kaithal, vide which the revision filed by the petitioner was also dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for the respondents No.2 to 10, 13 and 15 appeared and contested the petition. However, none appeared on behalf of respondents No.11, 12 and 14 despite service.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that challan was presented in case FIR No.162 dated 30.06.2011 under Sections 420, 467, 468, 471 and 120-B IPC by the Police Station Kaithal. As per the allegations of the prosecution, Smt.Sheetal had got executed a false sale deed on 06.05.2008, which was scribed on 29.04.2008, which was got executed by impersonating the complainant. The allegations against Subhash Chander, Suresh Kumar, Sat Narain, Vishnu Bhagwan and Yogesh Kumar are that Smt.Sheetal sold same property in June 2010 for ₹1,20,00,000/- to these above-mentioned persons.

Learned counsel for the petitioner argued that all of them have also conspired in committing the offence of cheating and forgery etc. as the property of Pawan Kumar father of the present petitioner has been sold by impersonation.

From the record, I find that Smt.Sheetal, who has purchased the property after paying the sale consideration to the impersonator, herself has been cheated. There is no cogent evidence on record to show that she was,

in any way, related to the impostor. Similarly, the sale deed has been scribed on 29.04.2008 and has been executed on 06.05.2008. The other additional accused Subhash Chander etc. have purchased the property after about two years from Smt.Sheetal by paying sale consideration of ₹1,20,00,000/-. Even, at the time of arguments, learned counsel for the petitioner has not argued that this sale consideration has not been paid. Nothing is there on the record that Subhash Chander etc. who are vendees and purchased the property in 2010 from Smt.Sheetal, are in any way related or connected to Smt.Sheetal. The criminal conspiracy is mainly to be inferred from the circumstances. There is nothing on the record at this stage to show that Smt.Sheetal and Subhash Chander etc., in any way, are part of the conspiracy. Rather, they have been cheated.

The impostor and the witnesses who identified the impostor at the time of execution of sale deed etc. have already been challaned. The mere fact that the husband of Smt.Sheetal entered into agreement with the present vendees, will not, in any way, show that all these are involved in the commission of the offence.

From the record, it does not appear to the Court that the persons which the complainant-petitioner wants to summon as additional accused are involved in the commission of the offence and they should be tried along with the main accused. The standard of proof for summoning additional accused under Section 319 Cr.P.C. is somewhat more than prima facie case.

From the perusal of the record, I find that the order and judgment passed by the Courts below do not amount to abuse of process of law or miscarriage of justice. No illegality has been committed by the

Courts below while dismissing the application under Section 319 Cr.P.C. The order dated 17.02.2016 passed by learned JMIC, Kaithal and the judgment dated 15.03.2016 passed by learned Addl. Sessions Judge, Kaithal, are correct, as per law and evidence and do not require any interference from this Court.

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

February 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No