IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.13427 of 2017
Date of Decision-01.06.2017

Sunil Maan ... Petitioner

Versus

State of Haryana ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Navraj S. Mahal, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

Mr. A.P.S. Deol, Sr. Advocate with
Mr. Sushil Jain, Advocate
for the complainant.
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RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.893 dated 22.12.2014 registered under Sections 420, 467, 468, 471 and 120 IPC at Police Station City Ballabgarh, District Faridabad.

[2]. Complainant alleged that he has been cheated and defrauded of his money by the accused/petitioner. Accused/petitioner contacted the complainant for selling a land by alluring him that the same was a beneficiary deal. Complainant agreed to the same and the accused took the complainant to the site where the land was situated. On visiting the land with Sewa Ram, the complainant liked the same and asked for the papers of the property. A f*ard* was provided by the accused showing himself to be owner of the land. The ownership

of the land was shown to be on forged document. Complainant became ready to purchase the land and agreement to sell was executed for a total sale consideration of Rs.3,69,63,000/- for the land measuring 3080 sq. yards. Sewa Ram and Sunder Singh Pahil were the attesting witnesses. An earnest money to the tune of Rs.1,00,00,000/- was taken by the petitioner against receipt and nomenclature of the land was given as khasra No.75/11/2 (7-9) area 3080 sq. yards measuring 180X154 ft. in Mauja Sihi, Tehsil Ballabgarh, District Faridabad. A passage towards west of 16 ft. wide and north of 16 ft. was attached to the property. The date for execution of sale deed was fixed as 10.03.2013. The complainant alleged that on verification of the original record from the department, the accused/petitioner was not found to be owner of the land in question. In this background, the FIR came to be registered.

[3]. Learned Senior Counsel for the petitioner submitted that both the parties are property dealers. A sale deed was executed on 14.12.2012 in respect of 10 kanals, 5 marlas of land for a total sale consideration of Rs.44,84,500/- by Pawan Kumar in favour of the complainant and brother of the petitioner namely Amit Mann. Sale consideration was paid by the petitioner. An amount of Rs.24,50,000/- was paid by cheques. Those cheques were dishonoured and then, payments were made on 06.01.2015, 06.02.2015, 05.03.2015, 06.04.2015 and 07.05.2015 in cash. Complainant was beneficiary of the same. In

the aforesaid transaction, no payment was made by the complainant.

[4]. Second sale deed was executed on 08.04.2013 in respect of 22 kanals of land for a total sale consideration of Rs.1,20,00,000/-. The vendor in the said transaction was Anisha wife of late Nasrudeen Ali and Sumantra. Complainant was vendee to the extent of 50% and brother of the petitioner was also beneficiary to the extent of 50%. According to the learned counsel, the entire sale consideration of Rs.1,20,00,000/- was paid by the petitioner and in this context, statement of Anisha wife of late Nasrudeen Ali has been recorded by the police on 16.02.2015 which reads as under:-

> *"Statement of Aneesa wife of Late Nasrudeen Ali, Resident of Village Sikri, Police Station Sadar Ballabhgarh, aged 37 years.*
>
> *Stated that I am resident of above mentioned address and I am doing household work. I have one son namely Shahid. Death of my husband has since taken place around 3 years back. Our 24 kanals of land is situated at Kabulpur Bamar, said land was standing in the name of me and my sister-in-law Sumantra. That our deal was struck against sale consideration of Rs.1 crore, 20 lacs with Mandhir Mann and Amit Mann. That at the time of striking of deal Mandhir Mann and Amit Mann had paid Rs.21,17,500/- as earnest money and at the time of registration sum of Rs.10,00,000/- was paid vide cheque No.44757 dated 16.04.2013. Thereafter said amount was credited in my account number 82262200034895*

maintained with Syndicate Bank Shokri and at the time of registry Mandhir Mann and Amit Mann paid sum of Rs.88,82,500/- in cash and the registry was executed in the name of Amit Mann and another person. That we came to know at later stage that the name of the person apart from Amit Mann was Anil Kumar. That neither our any negotiation was never held with Anil Kumar, nor we have ever seen him nor at the time of making payment of money Anil Kumar accompanied with Mandhir Mann and Amit Mann. Prior to execution of registration or during negotiations we had never seen Anil Kumar. We had seen him only at the time of registration. Entire money of above mentioned deal to the tune of Rs.1,20,00,000/- was paid by Amit Mann and Mandhir Mann. Neither any money was paid to us by Anil Kumar, nor do we know him. I have recorded my statement heard it and is correct.

Sd/- Aneesa

Attested

ASI, Dt. 16-2-15"

[5]. Learned Senior counsel further submitted that in the transaction of sale deed dated 08.04.2013, the police has recorded the statement of Anisha in order to connect the said transaction with the present FIR, but in the instance of sale deed dated 14.12.2012, the police has not recorded any statement of Pawan Kumar initially in the context of payment made by the petitioner. Learned Senior Counsel also relied upon the affidavits dated 05.05.2017 executed by Amit Mann and Sanjay Mann brothers of the petitioner, wherein they have stated that they are co-owners in possession of whole moveable and immoveable

properties with their brothers Mandhir Mann and Sunil Mann. Learned Senior Counsel stated that the challan has already been presented. Petitioner was declared as proclaimed offender on 28.10.2016 and after registration of FIR under Section 174-A IPC, petitioner is in custody since 04.02.2017. The offence is triable by the Magistrate and after filing of the challan, petitioner deserves to be enlarged on regular bail.

[6]. On the other hand, learned State counsel submitted that the transactions arising out of sale deeds dated 14.12.2012 and 08.04.2013 have no concerns with the petitioner as those were independent transactions.

[7]. According to learned Senior Counsel for the complainant, the second agreement to sell was also found to be forged and factitious, wherein stamp was found to be ante dated and forgery was committed. Learned Senior Counsel contended that the allegations against the petitioner are serious in nature. Name of village Sihi was not mentioned in the agreement. One forged *jamabandi* was shown to the complainant, wherein land in question was situated in village Sihi, whereas the land actually situated in village Jharsaintly. The second agreement was fabricated by the accused which was allegedly executed on 27.11.2012. As per report from Security Printing Press, Hyderabad, the stamp paper used in the said agreement dated 27.11.2012 was prepared and dispatched to

Treasury Office, Government of Haryana on 01.07.2014. In the aforesaid context, it has been argued that the petitioner not only prepared a forged *jamabandi*, but has also ante dated one agreement to sell in a continued effort to cheat the complainant in a sum of Rs.1,00,00,000/-. Learned Senior Counsel further submitted that merely because the complainant was made partner by brothers of the petitioner in two sale instances, that will not co-relate anything in favour of the petitioner.

[8]. Having heard the submissions made at the bar and without meaning anything on the ultimate merits of the case, lest it may prejudice the case of either sides at the time of trial, I am of the *prima facie* view that in the sale instance dated 08.04.2013 in respect of 22 kanals of land for a total sale consideration of Rs.1,20,00,000/-, the vendor Anisha while making statement dated 16.02.2015 has admitted that they came to know at later stage that the name of the person apart from Amit Mann was Anil Kumar. Neither any negotiation was ever held with Anil Kumar, nor the vendor Anisha and another had ever seen him at the time of making payment of money. Prior to execution of registration or during negotiations, Anisha and another had never seen Anil Kumar. He was only seen at the time of registration. The entire money to the tune of Rs.1,20,00,000/- was paid by Amit Mann and Mandhir Mann. The said statement has been made part of the challan by the police, but no such statement was recorded in the sale instance of 14.12.2012, wherein 10

kanals, 5 marlas of land was sold for a sale consideration of Rs.44,84,500/- by Pawan Kumar in favour of the complainant and Amit Mann. In the said transaction, *prima facie* it has come on record that the money was paid by the brothers of the accused and no money was paid by the complainant.

[9]. At this stage, the overlapping facts and *inter se* liabilities of the parties would be having *prima facie* bearing on ultimate fate of the case. If computation of total amount is made, it will be debatable as to the pending dues between the parties in the light of business transactions between the complainant and family of the petitioner in view of alleged joint status of the petitioner with his brothers.

[10]. At this stage, since the challan has been presented, the petitioner is in custody since 04.02.2017 and without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate.

[11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

01.06.2017 **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No