

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-24195 of 2016

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Date of decision:3.3.2017

Dalbir Singh

...Petitioner

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sant Pal Singh Sidhu, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. with a prayer to set aside the order dated 23.9.2015 (Annexure-P.2), vide which the learned trial Court has dismissed the complaint and not summoned the accused/respondents No.2 to 4 in criminal complaint No.21-I/23.10.2013/13.7.2015, titled as “Dalbir Singh Vs. Karan Singh and others” (Annexure-P.1), filed under Sections 420, 467, 468, 471, 506 and 120-B IPC as well as the order dated 10.5.2016 (Annexure-P.3), passed by the learned Additional Sessions Judge, Hisar, vide which the revision petition filed against the order dated 23.9.2015 has been dismissed, being against the law and facts available on record.

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

From the record, I find that Dalbir Singh filed the complaint

against Karan Singh, Shree Krishan and Suresh Chand for the offences under Sections 420, 467, 468, 471, 506 and 120-B IPC. The brief facts of the complaint as noted down by the learned Judicial Magistrate Ist Class, Hisar in the impugned judgment dated 23.9.2015 are as under:-

“The brief facts of the complaint are that the complainant and the accused persons are the co-sharers in joint holding ancestral land, which has not been partitioned till date. The father of the accused namely Rama Nand was owner to the extent of 1/5th share i.e. 216th marla out of the total land measuring 1082 marla. Out of this land, on 2.12.1983, father of the accused had leased out 152 marla land to Vijay Singh s/o Lal Chand for a period of 99 years and had also executed a General Power of Attorney regarding said 152 marla land In favour of Lal Chand s/o Goverdhan. On the basis of this General Power of Attorney, Lal Chand had sold out the said land measuring 152 marla vide sale deed dated 4.8.1994. After that, total 65 marla land was left out with the father of the accused persons. It is further mentioned that accused had received said 65 marla land from their father vide release deed No. 4399 dated 15.9.2000 and out of which, accused had released 28 marla land to Dilbag Rai etc. and 11 marla land to Munshi Ram etc. Thereafter, total land measuring 26 marla was left with the accused persons. After that, out of this 26 marla land, the accused had sold out 5 marla land to Kamla Devi and now, total land measuring 21 marla is

left with the accused persons. It is further averred that despite the knowledge this fact that they have only 21 marla to their share, the accused persons have mortgaged the land measuring 24 marla in favour of Narain s/o Dhoop Singh for total consideration of Rs.2 lacs vide vasika No. 3259 dated 3.6.2011 and handed over the possession of the land. It is further averred that the complainant is an Govt. employee and when this fact came to his knowledge, he raised objection to the accused, upon this, accused openly extended threat that in case he would disclose this fact or initiate any action, then they will kill him alongwith his family members. Thereafter, a written application was moved to SSP, Hisar, but no action was taken against the accused persons. Hence, the present complaint.”

The complainant examined Het Ram, Patwari as PW-1, PW-2 Neelam, Record Keeper, PW-3 Kuldeep Singh, Registration Clerk and himself as PW-4.

The learned Judicial Magistrate Ist Class, Hisar, vide order dated 23.9.2015 dismissed the complaint. Aggrieved from this order, a revision petition was filed, which was also dismissed by the learned Additional Sessions Judge, Hisar, vide judgment dated 10.5.2016. Aggrieved from these order/judgment, this petition has been filed.

From the record, I find that the order/judgment passed by the Courts below are correct as per evidence and law. The case of the complainant is that the accused had transferred more land than their share.

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As per record, 24 Marlas of land had been mortgaged vide mortgage deed Ex.P.17, whereas the share of the accused comes to about 21 marlas. It is admitted fact that 'Khata' is still joint i.e. 54 Kanals 2 Marlas. The Courts below held that the dispute is primarily of civil nature and further the mortgage deed has also been cancelled. A perusal of the record shows that no document had been forged etc.

As regards cheating also there was no intention to cheat the complainant by mortgaging the property from the joint share which is marginally more than the share of the accused.

Keeping in view the facts and circumstances of the case, I find that no illegality has been committed by the Courts below while dismissing the complaint and the revision petition.

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

March 3, 2017.

(Inderjit Singh)
Judge

hsp

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