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

**CRM-M No.2888 of 2012 (O&M)
Date of Decision: 13.11.2017**

Gurmail Kaur and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HONBLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. H.S. Dhindsa, Advocate,
for the petitioners.

Mr. Hittan Nehra, Additional Advocate General, Punjab,
for respondent No. 1.

Mr. H.S. Baath, Advocate,
for respondent No. 2.

SUDIP AHLUWALIA J. (ORAL)

The petitioners in this Court are the purchasers of certain disputed property, which was allegedly sold to them by the co-accused, namely Joginder Kaur, Avtar Singh and Jasinder Kaur, without having any valid title to the same. The complainant (respondent No. 2) is the co-sharer in the concerned properties and she had filed the complaint by alleging that the sale transaction between the co-accused and the petitioners was a fraudulent one, only to defeat her own claim.

2. This Court has gone through the body of the original petition

of complaint (Annexure P-1). It is seen therein that there are allegations to the effect that the sale deed in favour of the present petitioners was based on fictitious/fraudulent documents. The nature of such forged documents has not been explicitly specified in the complaint, but on verbal query of the Court, Ld. Counsel for the complainant/respondent No. 2 has submitted that a purported Will executed in favour of the predecessor-in-interest of the co-accused, namely Mohinder Singh, executed by Bara Singh, who was one of the four original co-sharers/brothers was the concerned fraudulent document involved.

3. A perusal of the impugned summoning order passed by the Ld. Civil Judge (J.D.), Ludhiana, dated 28.09.2011 (Annexure P-15) goes to indicate that it is virtually a summary of the allegations made out in the original petition of complaint. Even here there is no reference to the purported forged Will, on the basis of which the co-accused/vendors allegedly transferred the disputed property in favour of the present petitioners.

4. It is an admitted case that petitioner No. 2 was the tenant of co-accused/vendors, and petitioner No. 1 is his own wife.

5. Admittedly, neither of the petitioners were from the family of the original co-sharers, and so they are not presumed to know about the internal affairs/disputes, if any, between their landlord's family.

6. There is no material on record to indicate cogently as to how the petitioners could have been aware that the sale deed in their favour was being executed on the basis of forged or fictitious documents.

7. For this reason, this Court is of the opinion that continuation of

the criminal proceedings against the present petitioners would certainly amount to an abuse of the process of the Court.

8. Consequently, all proceedings against the present petitioners in the pending Criminal Complaint No.212/1/05, dated 15.09.2005, pending in the Court of the Ld. Judicial Magistrate Ist Class, Ludhiana, under Sections 409/467/468/471/472/506/423 of the Indian Penal Code, are ordered to be quashed forthwith.

9. However, nothing in this order shall caste any reflection on the merits of the same complaint qua the remaining co-accused/vendors of the present petitioners.

10. Disposed off.

(SUDIP AHLUWALIA)
JUDGE

13.11.2017
Apurva

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No