

115.

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

CRM-M-25884-2014 (O&M)

Date of decision:03.11.2017

PARDEEP RANA

... Petitioner

versus

NITIN KUMAR

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

Mr. Surinder Gaur, Advocate,
for the respondent.

HARI PAL VERMA, J.

Petitioner has filed the present petition under Section 482 Cr.P.C. impugning the order dated 21.01.2013 passed by learned Judicial Magistrate Ist Class, Sonipat, whereby the complaint filed by the petitioner under Sections 323, 420, 467, 468, 471, 506 IPC, was dismissed. Challenge has also been laid to the order dated 04.02.2014 passed by learned Sessions Judge, Sonipat whereby the revision petition filed by the petitioner against the order dated 21.01.2013 was dismissed.

Briefly stated, an agreement to sell for plot No.1450 measuring 160 square yards in Sector 7, Urban Estate, HUDA, Sonapat, for a consideration of ₹ 73 lakhs was entered between the petitioner and the respondent-accused on 29.08.2011 and the petitioner

paid earnest money of ₹5 lakhs. In view of the terms of agreement dated 29.08.2011, the respondent-accused was required to execute the sale deed in favour of the petitioner on or before 15.10.2011. The agreement dated 29.08.2011 was executed on the basis of an earlier agreement executed in favour of the respondent by one Jatinder Kumar.

As per said agreement dated 29.08.2011, the respondent was required to execute the sale deed in favour of the petitioner on or before 15.10.2011. However, on 15.10.2011, it was Saturday, whereas 16.10.2011 was Sunday. On the next working day, since the respondent did not appear, the present petitioner got his presence marked in the office of Sub Registrar, Sonipat. It is thereafter, the petitioner came to know that there was no agreement to sell in respect of the said plot and still respondent executed agreement with the petitioner so as to grab earnest money from the petitioner by playing fraud. When the petitioner approached the respondent for return of earnest money, the respondent threatened the petitioner that in case, the money is demanded back, he will kill him and it is in these circumstances, the petitioner had to file a complaint.

Vide judgment dated 21.01.2013, the trial Court dismissed the complaint by observing that as regards the allegations under Sections 467, 468, 471 IPC, the complainant has not been able to prove that which false document has been prepared by the accused for which any forgery has been committed. Similarly there were no allegations in the complaint with regard to offence under Section 323 IPC. As

regards the offence under Section 506 IPC, the complainant has merely alleged that the accused criminally intimidated him but no specific date and time was mentioned about the occurrence. The said judgment was challenged by way of revision petition before the learned Sessions Judge. However, the same was also dismissed.

Learned counsel for the petitioner has argued that even if the petitioner has got a civil remedy, still he can avail a criminal remedy. He relies upon judgment of Hon'ble Supreme Court rendered in *N. Devindrappa Versus State of Karnataka-2007(3) RCR (Criminal) 70.*

I have heard learned counsel for the parties.

This Court cannot ignore the fact that apart from the fact that the petitioner has filed a suit for recovery as well and vide judgment dated 21.01.2013, the suit filed by the petitioner for recovery of aforesaid amount alongwith interest has already been decreed and the complaint has been set aside. Since the petitioner has failed to establish the manner in which fraud has been committed by the accused-respondent, this Court finds no ground to interfere in the case.

Accordingly, present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

03.11.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No