

229.

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

CRM-M-28732-2014

Date of decision: 28.11.2017.

RAJ KARNI

... Petitioner

versus

TARSEM LAL & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.K. Arora, Advocate,
for the petitioner.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing the order dated 10.07.2012 passed by learned Judicial Magistrate Ist Class, Faridkot whereby the complaint filed by the petitioner against the respondents-accused under Sections 420, 465, 466, 470, 471, 379, 506, 120-B and 418 IPC was dismissed primarily on the ground that the registered sale deed for which the petitioner has made an allegation of fraud, was duly executed before the Registrar in the presence of witnesses and therefore, it cannot be believed that a fraud has been played upon the complainant. Similarly a revision petition filed against the said order was also dismissed by learned Additional Sessions Judge, Faridkot vide order dated 18.03.2014 with the following observations:-

“9. I have carefully considered the evidence brought on the file by the petitioner and find that the allegations made against the accused are not of criminal nature because the

revisionist-complainant herself deposed in the complaint as well as in her evidence while she appeared in the witness-box that she alongwith Darshan Lal appeared before the Tehsildar for got executing the sale-deed in favour of accused No.1 and 2 and photo-stat copy of sale-deed is available on the file as Ex.C5, where from it is clearly established that the petitioner-complainant Raj Karni and her son Darshan Lal put their respective signatures on the sale-deed and thereafter on the endorsement when they appeared before the Sub Registrar and their photographs are also available on the backside of the sale-deed. So, it means that they have willful executed the sale-deed in favour of accused No.1 and 2, but lateron they become greedy and demanded money and for that purpose they filed the instant complaint as well as civil suit for getting money from the accused persons. I think that when the sale-deed is voluntarily executed by appearing before the Sub Registrar, then question of fraud does not arise in any manner. So far as the fact of committing theft by the accused is concerned, I think that none of the witness has categorically deposed that they have seen the accused while they were committing theft. So, if there is no direct evidence in regard to theft, then prima-facie offence under Section 379 IPC and other Sections i.e. 420, 465, 466, 470, 471, 506, 120-B, 418 IPC is not made out against the accused. Accordingly, I came to the conclusion that the learned trial Court has rightly dismissed the complaint and I do not find any infirmity or illegality in the order dated 10.07.2012 passed by the learned lower Court and therefore the same is up-held and the instant revision-petition stands dismissed. Copy of the order be placed on the file of the lower court and the same be returned. File of this court be consigned to the record room.”

When the counsel for the petitioner was put to a specific query as to whether any civil proceeding is pending between the parties, he is fair enough to admit that the proceeding challenging the sale deed dated 17.04.2007 is pending before the Civil Court

Having heard learned counsel for the parties and noticing the fact that the parties are already facing a civil suit for the sale deed dated 17.04.2007, no case for interference is made out.

Dismissed.

It is made clear that the findings recorded by the criminal court shall not have any effect on the civil litigation between the parties.

(HARI PAL VERMA)
JUDGE

28.11.2017
sanjeev

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