

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

CRM No.M-31435 of 2015 (O&M)

Date of Decision: November 27, 2017

Parveen Kumar

...Petitioner

VERSUS

Rajender Singh Dalal

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harsh Kinra, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondents Rajender Singh Dalal, Shamsheer Singh Malik and Kharaiti Lal for quashing the impugned order dated 09.12.2013 passed by learned Judicial Magistrate Ist Class, Rohtak, vide which the complaint filed by the petitioner for summoning accused respondents for the offences under Sections 420, 441, 467, 468 and 120-B IPC was dismissed and also for quashing the judgment dated 08.04.2015 passed by learned Addl. Sessions Judge, Rohtak, vide which the revision petition filed by the petitioner was dismissed.

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

From the record, I find that Parveen Kumar complainant filed a

complaint against Rajender Singh Dalal, Sunder Lal Jain, Shamsheer Singh

Malik and Kharaiti Lal under Sections 420, 441, 467, 468 and 120-B IPC.

The brief averments of the complaint as noted down in the impugned order dated 09.12.2013 passed by learned JMIC, Rohtak, are as under:-

“2. Complainant has stated that he along with his brother Parmod Kumar is the owner of land Khasra no.7880 measuring 1 biswa to the extent of ½ biswa each. Complainant and his brother have purchased the said land vide registered sale deed No.3085 dated 30.07.1992 and sale deed No.3239 dated 06.08.1992 from Smt. Sarita Jain through accused No.2 being her power of attorney holder. The khasra no.7880 was divided into parts and was numbered as Khasra No.17540/7880 and 17541/7880 one biswa of the land in the above said khasra number was sold to the complainant and his brother and possession was also delivered. The remaining land was sold to different persons by accused No.2. Thus, Smt. Sarita Jain was not having any land in the above said khasra numbers, as land was already sold. It has been further stated that accused No.2 executed a sale deed in favour of accused No.1 dated 03.07.2006 and sold khasra No.7880 to accused No.1. Mutation was also sanctioned for this land. Accused No.1 and 2 intentionally mentioned wrong boundaries and dimension of the plot and wrongly executed ½ biswa of land of complainant and his brother and half bishwa of land of complainant's father. In this manner, accused persons have indulged in conspiracy to grab the land of the complainant, his brother and his father. Accused No.3 and 4 took active part as witnesses of the false and fabricated sale deeds. They got executed a false, fabricated and bogus sale deed just to cause unlawful loss to the complainant, his brother and his father and in this manner all the accused committed cheating with intention to derive illegal benefit. It has been further alleged that accused on the basis of false and fabricated documents have committed criminal trespass over some portion of land of complainant, his brother and father and took forcible possession of the part of the land owned and possessed by them. Complainant also made complaint to the SHO, Police Station Civil Lines, Rohtak, in this regard, but all in vain. Hence, this complaint.

The complainant examined witnesses in preliminary evidence and learned JMIC, Rohtak, after discussing the evidence and law, dismissed the complaint. It is mainly held by learned Magistrate that the offence under

Section 420 IPC is not made out and relied upon the law laid down by the Hon'ble Supreme Court in *Medehi Chemicals & Pharma (P) Ltd. vs. Biological E. Ltd.(2000) 3 SCC 269*. A revision petition was filed before Court of Session and learned Addl. Sessions Judge, Rohtak, dismissed the revision petition vide judgment dated 08.04.2015.

Aggrieved from the above-said order and judgment, present petition has been filed by the petitioner-complainant.

First of all, as per the facts of the case, the sale deed was executed on 30.07.1992 and 06.08.1992 by the complainant. As per the complaint, Smt.Sarita Jain was not having any land in above-said khasra numbers, as land was already sold. Accused No.2 executed sale deed in favour of accused No.1 and mutation was also sanctioned for that land. Accused No.1 and 2 intentionally mentioned wrong boundaries and dimensions of the plot and wrongly executed ½ biswa of land of complainant and his brother and half biswa of land of complainant's father. It is also stated that accused No.3 and 4 also took active part as witnesses to the false and fabricated sale deed.

At the time of arguments, it is not contested by the complainant that there was any inducement by the accused to the complainant nor any wrongful loss has been caused to them. As per the law laid down by the Hon'ble Supreme Court, the offence will be against the second vendee and not against the real owner of the property.

Learned counsel for the petitioner argued that offence under Section 447 IPC is also made out against the accused as they have illegally encroached upon the property.

From the perusal of the record, it looks that the dispute is

regarding demarcation of the property. The perusal of the complaint shows that no particulars have been mentioned in the complaint that on which date, month and year, the trespass was committed and on which specific part, which khasra number has been encroached etc. From the vague averments in the complaint, it cannot be held that there is sufficient ground to summon the accused under Section 447 IPC.

In view of the above discussion, I find that no illegality has been committed by the Courts below while passing the impugned order and judgment.

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

November 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No