

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38633 of 2013

Date of Decision: 24.04.2017

Charanjit Singh and others

....Petitioners

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bhoop Singh, Advocate
for the petitioners.

Mr. Vikramjit Singh, Addl. A.G., Haryana.

Mr. Vivek Goyal, Advocate
for Mr. Yogesh Goel, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

This is petition filed by Charanjit Singh and others seeking quashing of FIR No. 578 dated 28.10.2013, registered for offences punishable under Sections 406, 420, 506 and 120-B of Indian Penal Code (for short 'IPC'), at Police Station Yamunanagar City, District Yamunanagar.

2. Above FIR was registered on the statement of respondent no. 2- Satyawan Sharma (complainant), wherein he has stated that Sandeep Rana and his father Yashpal Rana of his neighbouring village were known to him. In July, 2012, Sandeep Rana asked the complainant to invest money in some property to earn huge profit. He gave instances of investment by some of his relatives in property dealings, who have gained a lot. The complainant did not exhibit any interest in his offer and declined to invest money. After sometime, Yashpal Rana and his brother Yogesh Rana came to the house of

complainant and suggested him to invest some money in property transactions. They also informed him about links of Sandeep Rana with big property dealers like Sanjeev @ Bittu, resident of village Barwala and Neeraj, resident of Indri. The complainant again put them off with the assurance that he will consult his father and brother and then inform them.

After few days, Yashpal Rana and Sandeep Rana again came to the house of complainant and allured him for investment by putting several proposals before him. They told him that the complainant is required to invest some amount towards payment of earnest money in a property deal and the sale deed will be got registered in the name of other willing purchasers, who were interested to purchase the property at higher price but did not have ready money at that time. Thereafter, the complainant fell ill and was got admitted in hospital, where 5-6 persons, namely, Sandeep Rana, Yashpal Rana, Yogesh Rana, Neeraj, Sanjeev @ Bittu and two other persons came in Indica Car and apprised the complainant of a deal of land in village Nissing, Karnal and allured him to pay earnest money and earn huge profit. They told the complainant that deal of the land is for ₹46-₹47 lacs and it will be sold within no time for ₹55-₹56 lacs and the complainant will earn ₹10 lacs per acre within six months. The complainant again refused to invest any money.

After sometime Sandeep Rana alongwith Sanjeev @ Bittu again came to the office of complainant and told him that they have a deal of land measuring 9.5 acres situated at village Sadhora, Yamunanagar, which the owner is ready to sell @ ₹37 lacs per acre and another buyer is available with them, who is willing to buy that land for ₹45 lacs per acre but was not having ready money at this juncture. They asked the complainant to

invest money at that stage and assured him that within six months the land will be sold @ ₹45 lacs per acre. This time complainant believed them and agreed to invest money. He visited the land near village Sadhora, where both Sandeep Rana and Sanjeev @ Bittu showed him 9.5 acres of land situated at Ranjeetpur road within the area of village Mirzapur. The said land was bifurcated by the road. Meanwhile, owner of the land also came there and told the complainant that he is interested to sell the land @ ₹38 lacs per acre. The complainant returned to his house with Sandeep Rana, Yogesh Rana and Sanjeev @ Bittu and accepted their proposal. They called the complainant on 26.11.2012 to pay earnest money @ ₹33.70 lacs per acre and on 26.12.2012, Sandeep Rana, Sanjeev @ Bittu and Neeraj took ₹1 lac from the complainant with the assurance that within next two days they will fix his meeting with owner of the land. Thereafter, they did not contact the complainant and also did not respond to calls made at their mobile phone numbers.

On 29.11.2012, aforesaid three persons again came to the house of complainant at Yamunanagar and told him that owner of the land situated in village Sadhora refused to sell his land and now they will arrange another land for him within 4-5 days. On 02.12.2012, Sandeep Rana and Sanjeev @ Bittu came to his house and apprised him that they have arranged land near village Thol, District Kurukshetra for which they have subsequent buyer who will purchase the same at higher price. They took the complainant to village Thol on 03.12.2012, where he met Charanjit Singh (petitioner no. 1) and Jasbir Singh and went to their house, where mother, wife and father of petitioner no. 1-Charanjit Singh were also present. The deal of their land measuring 107 *kanals* 13 ½ *marlas* was settled @ ₹45,10,000/- per acre.

The complainant paid ₹10,000/- from his pocket. However, keeping in view the nature of transaction, petitioner no. 1-Charanjit Singh and his family members did not accept ₹10,000/- being a meager amount and asked for ₹5 lacs as earnest money on which Sanjeev @ Bittu told them that they have ₹1 lac with them and asked the seller to come to Yamunanagar where another sum of ₹1 lac will be paid to them. At Yamunanagar, Sanjeev @ Bittu called some person by making a call, who gave ₹1 lac to him and the same was paid to petitioner no. 1-Charanjit Singh, who suggested date for execution of agreement to sell as 06.12.2012. The complainant requested for some more time to arrange money but they insisted on agreement to be executed on 06.12.2012 saying that they are in dire need of money. On 06.12.2012, aforesaid persons reached District Court, Kurukshetra and asked the complainant to reach there for agreement, who sought one more day to arrange money. He also told them to get the papers prepared, if so desired, at which they got the agreement to sell prepared on 06.12.2012. On 07.12.2012 at about 07.00 a.m., Sandeep Rana, Yashpal Rana, Yogesh Rana, Sanjeev @ Bittu and Charanjit Singh came to the house of complainant and received ₹10 lacs from him in cash. This amount was received by Sanjeev @ Bittu, who after counting the same gave it to Charanjit Singh. It was agreed that rest of the amount will be paid to them on next day i.e. 08.12.2012. On 08.12.2012, the complainant went to village Jhansa *Anaj Mandi* on asking of the aforesaid persons and paid them balance amount of ₹43,90,000/- more. After receiving the same, petitioner no. 1-Charanjit Singh signed the agreement to sell and gave the same to complainant. It was agreed that the sale deed will be executed on 12.04.2013. Thereafter, the complainant enquired from Sandeep Rana and

Sanjeev @ Bittu about buyer of the land with them so that the sale deed may be executed in his favour but they backed out saying that they have no buyer to get the sale deed executed. On 19.12.2012, they called the complainant and told him that petitioner no. 1-Charanjit Singh required another sum of ₹20 lacs urgently. The complainant called them at his house at Yamunanagar on 20.12.2012, where Sanjeev @ Bittu, Sandeep Rana, Yogesh Rana, Charanjit Singh, Neeraj and Yashpal Rana came and demanded money, which the complainant agreed to pay in the presence of family members of Charanjit Singh. Amount of ₹20 lacs was paid to Charanjit Singh, his wife and mother so that they may not dispute the sale in future. At that time his father was also present. After sometime, Sandeep Rana, Neeraj, Yashpal Rana father of Sandeep Rana raised their hands and showed their inability to get the land sold on or before 12.04.2013, the date fixed for execution of the sale deed. The complainant apprised them that if they are not having any buyer, he will get the sale deed registered after arranging balance money of ₹5.25 crores from his family and friends. The complainant contacted his friends and family members who agreed to help him and get the sale deed registered in their joint names. On 05.04.2013, the complainant called aforesaid Sanjeev @ Bittu etc. to execute the sale deed at which Charanjit Singh told him that he was having dispute with his family members about the same land and the sale deed could not be executed on that date. On enquiry, as to why he had agreed to sell his land despite having dispute with his family members, Charanjit Singh sought some time to settle the dispute and execute the sale deed on or before 12.04.2013. Complainant again contacted Charanjit Singh, Sandeep Rana and Sanjeev @ Bittu on 10.04.2013 and requested them to execute the sale

deed on 12.04.2013 at which Charanjit Singh told the complainant that his *mama* (maternal uncle) had passed away and he will get late but execute the sale deed after lunch. The complainant waited for him alongwith other persons, who have arranged money but Charanjit Singh did not turn up and also switched off his mobile phone. The complainant got his presence marked before Sub-Registrar, Ismailabad. When he came out, he found that Charanjit Singh alongwith Neeraj, Sanjeev @ Bittu and Sandeep Rana were also present in the same complex but after seeing them they ran away from the spot. On the next day, the complainant again contacted Sandeep Rana, Sanjeev @ Bittu and Charanjit Singh to get the sale deed executed but they put off the matter on one pretext or the other. Thereafter, on enquiry the complainant came to know that there was bank loan on the land agreed to be sold. It also came to his notice that this land forms part of big *khewat* of which Charanjit Singh and his close relatives are co-sharers in joint possession. The complainant also came to know that before entering into agreement to sell the land to complainant, Charanjit Singh had already entered into agreement to sell the same land with one A.K. Khatar, who had already got registered FIR No. 124 dated 25.05.2012 against accused persons at Police Station Parao, Ambala City. The complainant came to know that Charanjit Singh alongwith Sandeep Rana, Yogesh Rana, Sanjeev @ Bittu and Neeraj have cheated him by making him to enter into a fraudulent agreement. When he took up the matter with Sandeep Rana and Sanjeev @ Bittu, they started giving references of their high links and threatened to harm the complainant and his family members if he made any complaint.

Learned counsel for petitioners has argued that agreement to

sell dated 06.12.2012 was executed by Gulzar Singh and Charanjit Singh in favour of complainant-Satyawan Sharma. This fact that there was bank loan on this land was mentioned in the agreement. Receipt of earnest money is not disputed. On 12.04.2013, Gulzar Singh and Charanjit Singh were present before Sub-Registrar to execute the sale deed and also issued a notice to the complainant calling upon him to get the sale deed executed but he had not turned up. Again they were present in the office of Sub-Registrar on 18.04.2013 and after waiting for complainant, executed affidavit dated 18.04.2013. Another notice was sent to the complainant on 29.04.2013 calling upon him to get the sale deed executed on 14.05.2013 on which date, again the complainant did not appear in the office of Sub-Registrar and ultimately an affidavit was got attested by Gulzar Singh and Charanjit Singh. Vide notice dated 15.06.2013, the complainant had asked Gulzar Singh and Charanjit Singh that they should obtain no objection certificate from other co-sharers, namely, Balkar Singh son of Sh. Gurnam Singh, Talwinder Singh and Pawan Kumar sons of Balkar Singh and also to get the land redeemed from the bank. That notice was replied on 24.06.2013 and the complainant was intimated that bank loan had already been cleared and the persons named in notice have no objection to sale of the land. In FIR No. 124 dated 25.05.2012, got registered by A.K. Khattar, registered at Police Station Parao, Ambala Cantt., the matter was duly compromised and cancellation report was prepared by the police, copy of which is Annexure P-10.

Learned counsel for petitioners has argued that in fact the complainant had no ready money with him to get the sale deed of the suit land executed in his favour and was simply gaining time. Charanjit Singh

and his father were ready to honour the agreement at any point of time and even now they are ready and willing to perform their part of the agreement. It is the complainant, who has not stood by the terms of agreement and got this FIR lodged against petitioners which is a sheer misuse of process of law.

Learned counsel for respondent no. 2-complainant has argued that submissions made by learned counsel for petitioners have no basis rather show attitude of petitioners, who were not willing to execute the sale deed despite agreement. On 12.04.2013, the date fixed for execution of the sale deed, complainant was present in the office of Sub-Registrar, Ismailabad, where petitioners Charanjit Singh and Gulzar Singh did not turn up and affidavit to this effect was got attested by complainant, copy of which is Annexure R-1. Thereafter, the complainant also filed a civil suit against petitioners seeking declaration that forfeiture of earnest money intimated to him vide reply dated 24.06.2013 sent by petitioners, is illegal and he is entitled to recover earnest money. So far as settlement of dispute with A.K. Khattar is concerned, he vide notice, copy of which has been placed on file as Annexure A-2, had asked Director General of Police to reinvestigate the matter. Even un-traced report was not accepted rather the matter was kept pending with the order that it will be reopened as and when any clue is found in future. A.K. Khattar also filed a civil suit seeking the relief of injunction against petitioners no. 1 and 2 and complainant, which is pending in Court.

I have given a careful thought to submissions of learned counsel for parties and have perused the paper-book with their assistance.

Before proceeding further, it will be very relevant to take note

of the fact that from entire allegations levelled in this case no offence is disclosed against petitioner no. 3-Paramjit Kaur wife of Charanjit Singh and petitioner no. 4-Gurmit Kaur wife of Gulzar Singh. Complainant had neither entered into agreement with them nor made any payment to them. He was not abetted at any point of time by both the above named ladies to part with any money. The mere fact that they were present in house and some payment was made to Charanjit Singh and Gulzar Singh in their presence makes out no case for offence punishable under Sections 406 and 420 IPC against them. I have minutely gone through allegations in the FIR where there is nothing to infer that petitioner no. 3-Paramjit Kaur and petitioner no. 4-Gurmit Kaur were party to any conspiracy allegedly hatched by petitioners no. 1 and 2 in connivance with Sanjeev @ Bittu, Sandeep Rana and others. This FIR against these two ladies is a sheer misuse of the process of law and calls for its quashing qua them.

Now I come to the role of Gulzar Singh and Charanjit Singh in the whole transaction. The contention of petitioners is that it was at the behest of Sanjeev @ Bittu and others that both entered into an agreement to sell their land. Earlier they had agreed to sell this land to one A.K. Khattar, who had also lodged an FIR against them bearing No. 124 dated 25.05.2012. As per case of petitioners, the police had prepared cancellation report in that case but perusal of order passed by learned Magistrate dated 08.01.2015 shows that untraced report was presented and following order was passed:-

“Untrace report presented today. It be checked and registered.

SHO, P.S. Parao has placed on record the untrace report before this court in FIR No. 124 dated 25.05.2012 under

Sections 406, 420, P.S. Parao. Heard. File perused. It is ordered to be consigned to the quarter concerned. However, if any clue is found in future, the same would be opened.”

Perusal of above order shows that the matter in case FIR No. 124 dated 25.05.2012 can be reopened at any point of time. No notice appears to have been served on A.K. Khattar before passing above order and he has filed civil suit against petitioners no. 1 and 2 in which complainant is also a party.

Now the question which arises for consideration at this stage is as to whether, petitioners no. 1 and 2 while entering into agreement with complainant on 06.12.2012 have disclosed that they had earlier entered into an agreement with A.K. Khattar or that FIR has been registered against them on 25.05.2012? Perusal of agreement shows that petitioners no. 1 and 2 presented themselves as absolute owner of suit land and have nowhere referred to earlier agreement or registration of FIR against them. It is a matter to be seen during investigation and trial as to what is the effect of concealment of these facts on the transaction with complainant. However, in these proceedings, it is not required to look into this aspect as to who were ready and willing to perform their part of the contract or who was at fault. As per terms of agreement, the matter which clearly and squarely comes out is that FIR registered against petitioners is not an abuse of process of law. The complainant had genuine grievance against petitioners no. 1 and 2 and others, which he has narrated in the FIR. The police is required to investigate all the aspects and then reach the conclusion.

Learned counsel for petitioners has argued that at the most it is a case of breach of contract for which no FIR could be got registered by the

complainant and supported his submission in view of observations of Hon'ble Apex Court in cases of *Hridaya Ranjan Pd. Verma and others vs. State of Bihar and another*, AIR 2000 SC 2341 and *K.C. Builders and another vs. Assistant Commissioner of Income Tax, 2004 (2) SCC 731*.

As already discussed, agreement to sell appears to have been entered with the complainant by misrepresentation of fact. Keeping in view facts and circumstances of the case as discussed above, observations made in aforesaid cases are not applicable to facts of the present case.

As a sequel of my above discussion, this petition is partly allowed and impugned FIR No. 578 dated 28.10.2013, registered for offences punishable under Sections 406, 420, 506 and 120-B 'IPC, at Police Station Yamuna Nagar City, District Yamuna Nagar alongwith all consequential proceedings arising therefrom, qua petitioners no. 3 and 4, is quashed. However, the petition filed by petitioners no. 1 and 2 is dismissed.

It is, however, made clear that observations made in this case are only limited for the purpose of disposing of this petition and shall not be taken as expression of opinion on merit of the case.

April 24, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No