

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8802 of 2014 (O&M)

Date of Decision: October 10, 2017

Charan Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Manoj Kumar Sharma, Advocate for the petitioners.

Mr. Arpinder Singh Sidhu, Deputy Advocate
General, Punjab.

Mr.Aayush Gupta, Advocate for respondent No.2

ARVIND SINGH SANGWAN, J.

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.102 dated 21.4.2013, under Sections 420/406 (Sections 467/468/471 added later on) of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Dhakha, District Ludhiana (Annexure P1) and all consequential proceedings arising therefrom.

It is submitted on behalf of the petitioners that the petitioners entered into an agreement to sell with one Jagroop Singh for the sale of their land. Later on, Jagroop Singh entered into an agreement to sell with the complainant-Rajpreet Singh Deol. Respondent No.2 had received an earnest money of ₹65,00,000/-. It is further submitted that, on the stipulated date, the said Jagroop Singh and petitioners did not appear before the Sub Registrar and, later on, they entered into an agreement to sell the land with some third person. It was also alleged that the complainant came to know

that the said agreement was executed with Charan Singh and Gurmit Singh and it was wrongly stated that no loan or court case had been pending qua the land in dispute, whereas, the petitioners had raised loan from three banks with regard to this land and, thus, had cheated the complainant.

Reply by way of affidavit of the Deputy Superintendent of Police Dakha, Ludhiana Rural, District Ludhiana was filed on 25.9.2014 and the reply of the private respondent No.2 was also filed on 26.9.2014.

Since this petition was filed in the year 2014 and, vide order dated 27.5.2016, it was directed that the proceedings before the trial Court to continue, a report was obtained from the trial Court on 22.9.2017 about the status of the case.

The trial Court on 9.10.2017 has submitted a report that for a considerable long time, the matter remained pending, awaiting the order of this Court, i.e. to see the out come of the case, despite the fact that there was no stay and it was also reported that the parties did not inform about the case of the status of the High Court and, therefore, no further proceedings in the trial Court could take place.

In reply, learned State counsel as well as the learned counsel appearing for respondent No.2 have stated that, in fact, petitioners had actively participated in the commission of offence as in the investigation, it has come that the petitioners had forged the jambandi to the effect that the factum of outstanding loan shown in the original jamabandi against the land in dispute was omitted and, thus, they forged the document and, later on, the offences under Sections 467, 468 and 471 IPC were added. During the investigation, it has also been revealed that the petitioners entered into an

agreement to sell with Jagroop Singh on 1.4.2010 and he received an amount of ₹30,00,000/- and fixed the date for executing the sale deed as 3.11.2010, which was later on extended to 15.6.2012, and petitioners received the further amount of ₹25,00,000/-. It was also found in the investigation that the accused, in conspiracy with each other forged the document and despite co-accused-Jagroop Singh having entered into the agreement to sell the land of the petitioners with the complainant, and despite having received the earnest money, he failed to execute the sale deed as the petitioners and Jagroop Singh did not come present on the stipulated date before the Sub Registrar for the obvious reasons that they could not sell the land as it was mortgaged for the purpose of obtaining the loan and the title was not clear and, in fact, had forged the jambandi to show that there was no loan on the same.

Learned counsel for the petitioners, in reply, has submitted that there is no privity of contract between the petitioners and complainant and they only agreed to sell the land with Jagroop Singh and Jagroop Singh entered into an agreement to sell the land with the complainant and received the earnest money.

Learned counsel for the petitioner has relied upon the judgment of the Apex Court in **Vesa Holdings P.Ltd. and another vs. State of Kerala and others** 2015(2) RCR(Criminal) 442 to submit that every breach of contract would not give rise to offence of cheating unless the complainant shows that the accused has fraudulent and dishonest intention, at the time of making a promise or representation.

After hearing the learned counsel for the parties, I find no

merit in the petition.

A bare perusal of the FIR and the investigation report submitted by the Police reveals that the petitioners, in conspiracy with Jagroop Singh prepared the forged document to show that their land was free from all incumbrances. The petitioners have obtained three loans on their land and were not competent to sell the same to Jagroop Singh, who later on entered into an agreement with the complainant and received the huge amount, thus, a fraudulent and dishonest intention of the petitioners to cheat the complainant is apparent on record.

Accordingly, this petition is dismissed. Since the FIR pertains to the year 2013 and this matter remained pending before this Court for the last more than four years without there being any stay and the trial Court did not proceed further on a wrong presumption that since the matter was pending in this Court, it kept adjourning the case awaiting further order of the High Court, and keeping in view that the trial is still at the initial stage, the trial Court is directed to dispose of the trial in accordance with law, expeditiously, preferably, within a period of one year from the date of receipt of copy of this order. However, it is made clear that the observations made in this order are for the purpose of deciding this petition and will have no bearing on the merits of the case.

(ARVIND SINGH SANGWAN)
JUDGE

October 10, 2017
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

