

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2131-2014 (O&M)

Date of decision: May 25, 2017.

Paramjit Kaur and others

... **Petitioners**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Bikramjit Arora, Advocate for the petitioners.

Shri D.S. Virk, Deputy Advocate General, Punjab.

Shri B.S. Baath, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the consent of learned counsel for the parties.

The learned trial court by order dated 18.10.2012 in FIR No.31/2012 discharged the petitioners by giving the following reasons:-

“The allegations levelled against the accused are that sale deed was got executed in favour of accused No.1 Paramjit Kaur vide registered sale deed dated 6.4.2011, but the sale consideration was not paid by the accused to the complainant. Learned APP for the State has carried me through the registered sale deed which is placed on record and showed me that no amount was ever paid by the accused to the owner, who is the complainant in the FIR in question in the presence of Sub Registrar and the allegations levelled against the accused are true and charge is liable to be framed against the accused.

The perusal of the body writing of the sale deed shows that it stands mentioned in the sale deed that sale consideration had already been paid by the accused to the complainant and thereafter sale deed in question was executed in favour of the accused by the complainant. The sale deed in question is a registered sale deed. It is presumed that contents of the sale deed were read over by the Sub Registrar before registration of the sale deed in question in favour of the seller and thereafter the same was signed by the concerned parties. In view of registered sale deed, which is placed on record, no offence under section 420/120-B IPC is made out against the accused. Accordingly, accused persons are ordered to be discharged. File be consigned to the record room.”

It is not in dispute that the sale deed in question was registered on 6.4.2011 admittedly by the complainant and the sale deed recites that the entire sale consideration was paid and thereafter the registered sale deed was effected. The complainant then filed the FIR with police on 26.2.2012 i.e. almost after 10 months that though it was stated in the sale deed that entire sale consideration was paid but actually nothing was paid and she was taken to the office of Sub Registrar for registration of the sale deed on the plea that she was required to be there for obtaining pension. The complainant thereafter filed revision against the said order vide Crl. Revision No.3 of 2013 decided on 5.5.2014. The revisional court recorded the following reasons in paragraph 3:-

“3. It may be submitted at the very outset that learned trial court has discharged all the accused at the initial stage simply by perusing that sale deed, as sale consideration was passed, as per the contents of that sale deed, but it is material to mention here that complainant specifically alleged that she was

not having any knowledge regarding execution of that sale deed and she was taken to tehsil complex for providing pension and fraudulently, such sale deed was got executed. In the given set of circumstances, it is very hard to believe at the very initial stage without getting evidence that proper sale deed was executed by complainant after receiving full and final sale consideration. Rather against such specific allegations, a prima facie case is certainly made out against all the accused for offences under sections 420, 120-B IPC. ...”

Section 60 of the Registration Act reads thus:-

“60. Certificate of registration.—(1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word “registered”, together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsement, referred to in section 59 have occurred as therein mentioned.”

It is seen from the reading of the above provision that the presumption arises for the correctness about the facts mentioned in the instrument so also the endorsement made by the Public Officer on the instrument. In other words, the rule of law is that the sale deed which recites the receipt of entire consideration by the vendor has a high probative value as well as presumption under law. If the vendor-complainant in this case wanted to rebut that presumption by destroying the probative value of

the instrument, then filing of FIR with the police cannot be a remedy. The remedy obviously would lie before the civil court and in that case the vendor-complainant can succeed by rebutting the presumption that is made available pursuant to Section 60 of the Registration Act. Till the civil court decides accordingly, there is a presumption and high probative value conferred by Section 60 on the instrument which cannot be set at naught much less by filing the FIR with the police station. If that were to be allowed, the action would be destructive of the rule of law provided by Section 60. Learned revisional court has not adverted to this important aspect, namely that otherwise every sale deed registered with the Registrar under the Registration Act would be put to challenge by lodging FIR on such grounds. The only reason given by the revisional court is that the recording of evidence would be essential for finding out the truth in the FIR in question. The reason adopted by the learned revisional court is in clear contradiction with the aforesaid concept of rule of law.

Learned counsel for the respondent-complainant has cited the decisions of the Apex Court reported as Kaliaperumal v/s Rajagopal and another, 2009(7) JT 124, (ii) Sheoraj Singh Ahlawat and others v/s State of Uttar Pradesh and another, 2013(1) RCR (CrL.) 153; and (iii) State Tr. Insp. Of Police v/s A. Arun Kumar and another, 2015(1) RCR (CrL.) 295. Having gone through these decisions, I find that there is no semblance or relevance with the facts of the present case. Those judgments are therefore not applicable to the facts of the present case. Therefore, in my opinion, the revisional order will have to be set aside and the order made by the trial court will have to be restored. If the vendor complainant has not filed any

civil suit for the remedy, the same is obviously unfortunate and if permissible in law, the vendor complainant may be well advised to file such civil litigation. Be that as it may, the following order is inevitable:-

ORDER

- (i) CRR-2131-2014 is allowed;
- (ii) The impugned judgment dated 5.5.2014 of the revisional court is set aside and quashed and the order dated 18.10.2012 passed by Additional Chief Judicial Magistrate, Tarn Taran is restored.

May 25, 2017.

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[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No