

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

CRM No.M-9889 of 2017 (O&M)

Date of Decision:- March 22, 2017

Mohar Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.B.S.Randhawa, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondents State of Haryana and Hari Singh for setting aside the order dated 05.08.2016 passed by learned Judicial Magistrate Ist Class, Rewari, vide which the application filed by the petitioner under Section 319 Cr.P.C. was dismissed and judgment dated 18.01.2017 passed by learned Addl. Sessions Judge, Rewari, vide which the revision petition filed by the petitioner was also dismissed.

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

From the record, I find that challan was presented against Hari Singh in case FIR No.221 dated 18.10.2011 under Sections 420, 423, 467, 468, 471 IPC. During the trial, an application was filed by the petitioner for

summoning accused Sarvan Devi, Prabhu Dayal and Shyam Bihari

Bhardwaj. The brief facts as stated in the application are that complainant Mohar Singh appeared before the Court as prosecution witness and he has categorically stated that his wife Shakuntla Devi and Munesh Devi wife of Ashok Kumar (brother of complainant) entered into an agreement dated 05.05.2004 with Dalip Singh for purchase of property and they had paid the entire amount of ₹60,000/- at the time of agreement and ₹5000/- for the purpose of execution and registration of sale deed were to be paid at the time of execution and registration of sale deed upto 31.12.2004. It is further stated that on 17.07.1996, agreement about the above property was executed by Rajender Singh son of Sarvan Devi in favour of Dalip Singh and the same was signed by Hari Singh as witness. Thus, Hari Singh had knowledge of the agreement dated 17.07.1996, which was executed by Rajinder Singh real brother of Hari Singh in favour of Dalip Singh. It is further stated that forged residence certificate of Sarvan Devi had been prepared by Sarvan Devi, Prabhu Dayal, Shyam Bihari Bhardwaj with co-accused Hari Singh. It was mentioned in the forged residence certificate that Sarvan Devi widow of Gopi Ram is resident of village Rampura. In the said certificate, it is also mentioned that she can sell her house at any time. These words/line were added later on by Hari Singh. This certificate also bear signatures of Sarvan Devi, Prabhu Dayal and Shyam Bihari Bhardwaj. On 20.05.2014 registered gift deed was executed by Sarvan Devi in favour of her son Hari Singh regarding above mentioned property on the basis of forged certificate. It is also stated that Sarvan Devi alone has never remained owner in possession of the property in question as two sons and three daughters were also legal heirs. It is further stated in the application

20 days from the date of gift deed. It is submitted that Hari Singh had cheated the complainant Shakuntla and Munesh by fabricating forged documents and it is stated that names of Sarvan Devi, Prabhu Dayal and Shyam Bihari were clearly mentioned in the FIR.

Learned JMIC, Rewari, after discussing the evidence and also relying upon the law, dismissed the application. A revision was filed by the petitioner and learned Addl. Sessions Judge, Rewari, dismissed the same vide impugned judgment dated 18.01.2017.

Aggrieved from the above said order and judgment, present petition has been filed.

From the record, I find that wife of the complainant and wife of complainant's brother, executed agreement with one Dalip Singh and paid money to him and the agreement about the above property executed by Rajender Singh in favour of Dalip Singh and same was signed by Hari Singh as witness and Hari Singh had knowledge qua earlier agreement. The perusal of the record shows that it does not appear from the evidence on record that the additional accused which the prosecution wants to summon are involved in the commission of the offence. Rather, the perusal of the evidence shows that all the allegations are levelled against Hari Singh, main accused, who has already been challaned. Mere mentioning of the names of some of the accused in the FIR and also mentioning the names in the statement, itself is not sufficient to summon those additional accused.

Learned Addl. Sessions Judge, Rewari has dismissed the revision vide judgment dated 18.01.2017. I have also gone through the findings given by learned revisional Court. The findings given by both the

Courts below are correct, as per law and no illegality has been committed.

In view of the above discussion, I find that the impugned order dated 05.08.2016 passed by learned JMIC, Rewari and judgment dated 18.01.2017 passed by learned Addl. Sessions Judge, Rewari, are correct, as per evidence and law and do not require any interference from this Court.

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

March 22, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No