

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

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**CRR No.440 of 2017 (O&M).
Date of Decision: 01.11.2017.**

Pravin Sarin

....Petitioner.

Versus

Vijay Kumar Yadav

....Respondent.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Ramendra Jain, J.(Oral)

CRM-3989-2017

For the reasons stated in the application, delay of 55 days in filing the revision petition is condoned.

Application is allowed.

CRR-440-2017

This revision petition has been preferred by the petitioner-complainant against the order dated 12.08.2016 passed by Revisional Court headed by Additional Sessions Judge, Gurgaon, accepting the revision of the respondent against the summoning under Sections 420, 467, 468, 471 and 506 read with Section 120-B of the Indian Penal Code (for short, 'IPC'), vide order dated 19.11.2014 by the Judicial Magistrate Ist Class, Gurgaon.

Briefly stated, wife of the petitioner, Protmina Sarin, being owner of a duplex flat at Gurgaon, agreed to sell the second floor of the same, in a total consideration of Rs.37,00,000/- vide written agreement dated 15.10.2008 to one Yaman Kumari Singh. The agreement to sell was

signed by the complainant and his wife both. At the time of execution of said agreement, vendee Yaman Kumari Singh also obtained two registered wills and General Power of Attorney of the wife of the petitioner qua the portion i.e. second floor purchased by her against payment of earnest money of Rs.4,00,000/-. Vendee further made a part payment of Rs.7,70,000/-, but without making the balance payment of Rs.25,30,000/- got registered a sale deed No.14807 dated 26.08.2010 on the basis of registered General Power of Attorney of the wife of the petitioner bearing No.9400 dated 15.10.2008 registered in her own favour, with the Sub Registrar, Jalandhar fraudulently and dishonestly and also took possession of the second floor. The respondent, as a Sub Registrar, Gurgaon had registered the aforesaid sale deed. Therefore, the petitioner filed a complaint against him as well as vendee Yaman Kumari Singh under Sections 420, 467, 468, 471, 506 read with Section 120-B IPC before the Judicial Magistrate Ist Class, Gurgaon. After recording preliminary evidence, the respondent and his co-accused, vendee Yaman Kumari Singh were summoned as discussed above vide order dated 19.11.2014.

Being aggrieved, the respondent preferred a revision petition before the revisional Court at Gurgaon, which was accepted vide order dated 12.08.2016 and resultantly the impugned summoning order dated 19.11.2014 was set aside qua him.

Being dissatisfied, the complainant has preferred the instant revision petition against the aforesaid order of the revisional Court.

Learned counsel for the petitioner inter-alia contends that vendee Yaman Kumari Singh was not legally entitled to get the sale deed registered in her own name on the basis of registered General Power of

Attorney in her favour. The respondent, being Sub Registrar, was required to be vigilant at the time of registration of the sale deed No.14807 dated 26.08.2010 got executed by co-accused Yaman Kumari Singh in her own favour on the basis of General Power of Attorney of Protmina Sarin. Registration of the sale deed by the respondent in favour of a person on the basis of General Power of Attorney in his own name, prima facie, proves his connivance with co-accused Yaman Kumari Singh.

I have given anxious consideration to the above submission made by learned counsel for the petitioner/ complainant.

There is no bar for execution of a sale deed in his favour by a person on the basis of registered General Power of Attorney in his own name. The petitioner-complainant has miserably failed to prove on record either before the trial Court or before the revisional Court and also before this Court that the aforesaid sale deed in favour of Yaman Kumari Singh was registered dishonestly with malafide intention by the respondent in conspiracy with the vendee. Hence, finding no merit in the instant revision petition, the same is dismissed with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Gurgaon. Copy of this order be sent to the Secretary, D.L.S.A., Gurgaon, for recovery of the costs from the petitioner.

(RAMENDRA JAIN)
JUDGE

01.11.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No