

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-2168-MA of 2016

Date of Decision : August 06, 2018

Ravi Kant

....Applicant

Versus

Raj Devi @ Raj Rani and others

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Jasdev Singh Mehndiratta, Advocate
for the applicant.

T.P.S. MANN, J.

The complainant has filed the present application under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of special leave to appeal against the judgment dated 1.9.2016 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhari whereby the accused, who are respondents herein, were acquitted of the charges under Sections 420, 467, 468, 471, 506 read with Section 120-B IPC.

According to the prosecution, Ganga Ram, father of the complainant, intended to purchase some land at or around Chhachhrauli and the accused persons had come to know of the same. In order to cheat the complainant's father, the accused hatched a criminal conspiracy and in the last week of November,

2007 contacted his father and told him that respondent No.1-Raj Devi @ Raj Rani was owner in possession of land measuring 18 kanals 9 marls situated at Chhachhrauli which she wanted to sell. The accused showed him a release deed in respect of the land in favour of respondent No.1-Raj Devi @ Raj Rani. They also showed copy of jamabandi for the year 2000-01 in respect of the land wherein column of remarks was blank. The accused assured the complainant's father that the land in question was free from all sorts of encumbrances, charges, etc. and there was no stay from any Court of law regarding the suit land and that respondent No.1 was competent to sell/transfer the same to any person. Believing the version of the accused to be true, the complainant's father agreed to purchase the land for a sale consideration of Rs.10,00,000/-. Agreement to sell dated 10.12.2007 was executed, which was duly registered and signed by respondents No.2 and 3, Sunder Lal and Dharminder Kumar, respectively, as witnesses. The accused received a sum of Rs.2,00,000/- as earnest money and executed a receipt thereof. Thereafter, the accused received another sum of Rs.1,00,000/- and receipt thereof was executed. In this way, the accused received a total sum of Rs.3,00,000/- as earnest money/advance out of sale consideration of Rs.10,00,000/-. Since respondent No.1-Raj Devi @ Raj Rani failed to perform her part of the agreement dated 10.12.2007, the complainant's father filed a civil suit against her which was pending for adjudication. After 9.3.2008, the

complainant's father while suspected some foul play, obtained copy of jamabandi for the year 2000-01 and noticed that there was stay/status quo order regarding the land issued by the competent Court which was entered in the revenue records vide Rapat No.646 dated 6.4.2006. On further enquiry it was learnt that civil suit titled as Barkha Ram Vs. Ram Devi, etc. was pending in the Court in respect of land in question and the aforementioned stay/status quo order stood passed in the said suit by the Court. The civil suit was decreed on 16.11.2009 against accused Nos. 1 and 2, besides others. The accused persons had prepared the jamabandi for the year 2000-01 with dishonest intention in order to cheat the complainant's father and using the same as genuine. The complainant's father through Narinder Kumar requested the accused to visit Jagadhari and to settle the dispute. Accordingly, in the last week of August, 2010 the accused came to Jagadhari where the complainant's father alongwith Narinder Kumar met them and asked them as to why they had played fraud upon him. The accused became annoyed and stated that they would not pay even a single penny to him, rather they would finish him in case he tried to take any legal action against them. The complainant's father moved an application to the Superintendent of Police against the accused on 24.9.2010. On coming to know about the same, the accused made threatening calls to him to withdraw the complaint. Due to the same, the complainant's father suffered a massive heart attack and died on 29.9.2010. Thereafter, the

complainant moved application to the office of Superintendent of Police, Yamuna Nagar but no action was taken against the accused. Hence, he had no other option but to file the complaint.

Having heard learned counsel for the applicant and on going through the record, this Court finds that the complainant has not disputed the execution of agreement to sell. As regards the accused not disclosing the factum of stay order regarding the land in question, it would be appropriate to go through the agreement to sell wherein it was categorically mentioned that case regarding suit property already stood decided by the Collector vide order dated 27.12.2006. As per the release deed, respondent No.1-Raj Devi @ Raj Rani had become owner of the property which release deed was challenged before the Civil Court and order of status quo stood passed in the Court. Further, it was mentioned in the agreement to sell that it would be responsibility of the vendee to satisfy himself about any encumbrance or charge which could hamper the execution of sale deed subsequently.

The complainant has admitted as a matter of fact that on his asking to show the document of title regarding the property in question, release deed in respect of the land was shown by respondent No.1-Raj Devi @ Raj Rani. The complainant also admitted that after 9.3.2008, his father obtained a copy of jamabandi for the year 2000-01 from the Halqa Patwari and he was surprised to know

about the status quo order. Despite the same, he slept over the matter and filed the complaint only on 24.9.2010.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The application is without any merit and, therefore, dismissed. Special leave to appeal is declined.

However, nothing stated above shall be construed as an expression on the merits of the litigation(s) pending between the complainant and the accused.

August 06, 2018	(T.P.S. MANN)	(FATEH DEEP SINGH)
satish	JUDGE	JUDGE

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO