

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-38321-2015 in
CRM-A-571-MA-2015
Date of Decision: February 12, 2018

Jinder Singh

.....Appellant(s)

versus

Gurbachan Singh and others

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Shailendra Sharma, Advocate for the appellant.

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

Sudhir Mittal, J. (Oral)

The applicant seeks leave to appeal against judgement dated 12.02.2014, whereby his complaint under Section 420, 120 IPC has been dismissed. The allegations of the applicant/appellant are that there was an oral exchange of land between the complainant and accused No.1/respondent No.1. Pursuant to the said exchange, the complainant was provided 3 karams of land as passage out of Khasra No. 67//7/2 towards the Eastern side, touching Khasra No.67//4/1, by the said accused No.1/respondent No.1. Oral exchange was reduced into writing vide Memorandum dated 16.02.2002. On 18.05.2005, respondent No.1 sold 15 marlas out of Khasra No.67//7/2/2 (1-10) and 8(2-1) to respondent No.2 and the user of the aforementioned passage was also provided to the said respondent. Remaining land measuring 1 Kanal 14 Marla and 2 Sarsahi was sold to the complaint and his brother on 16.07.2008. It was

categorically mentioned in this sale deed that no property towards the Northern side of the road is left with respondent No.1. However, by the sale deed dated 10.02.2011, the passage was sold by respondent No.1 to respondent No.2. Thus, it is alleged that respondent No.1 sold land, which was not owned by him as user of the land was given to the complainant and it was acknowledged in the sale deed that the user shall remain with him and thus, committed offence under Section 420 IPC.

2. The learned trial Court dismissed the complaint by the impugned judgment.

3. Even though right of the user of the 3 Karoms of land was provided to the complainant, title of the same remained with respondent No.1. Thus, it cannot be said there is sale of the land, which was not owned by the said respondent No.1 or that he had sold the land belonging to the complainant.

4. In this view of the matter, no offence under Section 420 IPC is made out and learned trial Court has rightly rejected the complaint. In case the applicant/appellant has been deprived of user of that passage, he would be free to approach the Revenue authority for provision of the said passage.

5. There is no merit in the application for leave to appeal and accordingly the same, along with the main appeal, is dismissed.

February 12, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No