

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14471-2017 in/ and
CRM-A-948-MA-2017 (O&M)
Date of decision: 12.11.2018

Gurdip Singh

.....Applicant

versus

Tarsem Grover and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Arun Abrol, Advocate for the applicant

- 1. Whether Reporters of Local newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

CRM-14471-2017

For the reasons mentioned in the application the same is allowed and delay of 6 days in filing the application for grant of leave to appeal stands condoned.

CRM-A-948-MA-2017

Heard on application under Section 378(4) Cr.P.C.

Present applicant Gurdip Singh had filed a criminal complaint before the Court of learned Judicial Magistrate First Class, Gurdaspur alleging that he had purchased 5 ½ marlas of house consisting of 1 room on ground floor and 1 room on first floor constructed on the shop along with terrace on 20.9.1993 from vendor Jagdish Pal for Rs.70,000/-. It is alleged that said vendor died and respondent nos.1 to 3 are his legal heirs. They

fully knowing that they have nothing to do with the roof on the shop, sold the same to accused no.4 vide sale deed dated 14.7.2010. When the complainant came to know about this fact, he sent hand written letter to accused no.8 Phuman Singh, who is Naib Tehsildar-cum-Sub Registrar, Kahnuwan but still the sale deed was registered. Therefore, all the accused are alleged to have committed offences punishable under Sections 420 read with Section 120B IPC. Accused No.5, namely, Vijay Kumar is attesting witness. Accused no.6 Sukhjinder Singh is Lambardar, who identified the parties.

After recording the preliminary evidence, all the accused were summoned to face trial under Section 420 and Section 120B IPC.

After recording the pre-charge evidence, all the accused were charge sheeted for the offences punishable under Section 420 and Section 120B IPC, to which, they pleaded not guilty. In the statement under Section 313 Cr.P.C., accused pleaded innocence.

After hearing both the parties, the accused were acquitted.

I am of the view that this case is a glaring example of misuse of process of Court, where the trial Court without critically examining the facts blindly summoned all the accused and made them to face trial.

Case of the complainant is that he had purchased a house along with a room on the shop and terrace and that accused nos.1 to 3 who are legal heirs of the vendor Jagdish Pal, fully knowing the same, sold roof of the shop to accused no.4 Balbir Singh. Accused no.5 Vijay Kumar is attesting witness, accused no.6 Sukhjinder Singh is Lambardar and accused no.7 Brij Lal Sharma are stated to have attested the sale deed. Phuman Singh is Naib Tehsildar-cum-Sub Registrar, Kahnuwan who while

discharging the official duties, registered the sale deed.

I am of the view that at the most it is a case of sale without title. Basically it is a civil dispute, which has been given colour of criminal dispute. In this case, the vendor, vendee as well as attesting witnesses to the sale deed, have been summoned. Complainant was not satisfied with the same. He even got summoned Naib Tehsildar-cum-Sub Registrar, Kahnuwan who had registered the sale deed.

I am of the view that from the complaint itself, no prima facie case is made out and the order summoning the accused and later on charge sheeting them, is nothing but misuse of process of Court.

It being so, there are no merits in the present application. The same is accordingly dismissed.

A Copy of the order be also sent to the accused to enable them to file a case for compensation from the complainant, if they so desire.

12.11.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No