

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

CRM-M-11194-2018
Date of Decision:22.11.2018

RAJ RANI

...PETITIONER

VERSUS

SANJIV KUMAR @ BANTI CHHABRA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. H.S. Sehgal, Advocate for the petitioner.

MANOJ BAJAJ, J.(ORAL)

The petitioner is aggrieved against the order dated 06.07.2017 passed by the Revisional Court, whereby the order dated 07.10.2016 of the learned trial Court refusing to summon the accused was affirmed.

The petitioner brought a complaint under Section 295-A, 427, 379 and 420 IPC before SDJM, Malout on 18.01.2010, alleging that she entered into an agreement to sell with the accused on 04.08.1995 and on the basis of the same, she got possession of the plot. After raising construction over the plot, Nishan Sahib was installed. It is alleged that pursuant to the agreement to sell, the possession was delivered. However, the sale deed was not executed despite repeated requests made to the accused. Later on the accused insisted for vacation of the plot as the prices had risen. It is alleged that on the date of occurrence, the accused along with his colleagues uprooted the Nishan Sahib in the presence of the complainant and had caused damage to her religious feelings. It is also narrated that FIR No.83 dated 21.04.2008 for the offences punishable under Sections 295-A, 427 and 379 IPC at Police Station, City Malout was also registered. However,

the same ended in cancellation report. It is also mentioned that the civil suit between the parties is also pending.

After recording the pre summoning evidence, the learned trial Court on 07.10.2016, has observed that the complainant has failed to make out a prime facie case and refused to issue the process. Aggrieved against the same, the revision was filed wherein the order passed by the learned trial Court was upheld.

I have heard learned counsel for the petitioner.

The petitioner has set up her case on the basis of purchase of plot through agreement to sell dated 04.08.1995. It has been specifically noticed by the Courts below that the said purchase is not proved and even the agreement to sell dated 04.08.1995 was not brought on record. Neither any sale deed has been executed nor any suit for specific performance of the said agreement was ever filed. Both the Courts have returned a finding that the possession of the petitioner on the said plot is seriously doubtful. The Court below has taken into account the entire sequence of events as well as the evidence on record including the fact that on the same set of allegations, FIR No.83 dated 21.04.2008 was investigated and found to be false and cancellation report was accepted by the Court on 31.07.2015.

The observations by the Courts below are based on proper appreciation of the material on record. It is a case where the complainant has failed to make out a prima facie case for issuance of the process.

In view of the above, no ground is made out for interference.

Dismissed.

22.11.2018

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No