

CRM-M-19293 of 2015

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

CRM-M-19293 of 2015
Date of Decision: 24.07.2018

Yash Pal Chaudhary

....Petitioner

Versus

Parveen Tavatiya and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Manish Soni, Advocate, for the petitioner.
None for respondents No.1 to 3.
Mr. Yashwinder Singh, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for setting aside order dated 24.04.2015 (Annexure P-3) of the trial Court, Gurgaon, whereby application of the petitioner-complainant under Section 311 Cr.P.C. for examination of two more witnesses to prove documents mark PA to PD in case FIR No.31 dated 06.02.2007 registered under Sections 420, 406 and 120-B IPC at Police Station Sector 56, Gurgaon, was dismissed.

In nutshell, respondents No.2 to 4 were booked under Sections 420, 406 and 120-B IPC for cheating the petitioner-complainant for ₹20,00,000/- on the pretext of selling 40 bighas of land situated at Village Thoran, Dehradun, for which they had no valid title.

During trial, the prosecution moved an application under Section 311 Cr.P.C. for examination of two more witnesses i.e. Clerk of Sh. Hari Sharma, Advocate, District Courts, Gurgaon, to prove legal notice (Mark PA) and concerned Clerk of the Revenue Department, Dehradun, to prove the sale deeds and mutations (Mark PB to PD), who, erroneously due to

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oversight, were not mentioned in the list of witnesses filed along with final report under Section 173 Cr.P.C.

Learned counsel for the petitioner *inter alia* contends that proving of the documents mentioned above is very much necessary to show that respondents No.2 to 4 were not the owners of the land in question, which they agreed to sell to the petitioner and duped him for ₹20,00,000/-. The trial Court without appreciating the above facts, wrongly and illegally dismissed the application of the prosecution for examination of the aforesaid witnesses.

Having considered the submissions made by learned counsel for the petitioner, which are not opposed by learned counsel for respondents No.1 to 3, as they are unrepresented since last many dates, I find merit in this petition inasmuch as the documents sought to be proved by examination of above two witnesses by the prosecution would help the trial Court in effective adjudication of the real controversy between the parties. The trial Court did not appreciate that no prejudice is going to be caused to the accused, in case, application of the prosecution under Section 311 Cr.P.C. is allowed.

In view of the discussion made above, petition is allowed. Impugned order dated 24.04.2015 is set aside. Petitioner is granted one opportunity to examine the aforesaid witnesses at his own risk and responsibility.

July 24, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No