

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21850 of 2018
Date of Decision: 11.07.2018

Vipul Garg

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Premjit Singh Hundal, Sr. Advocate
with Mr. Dinesh Trehan, Advocate
for the petitioner.

SURINDER GUPTA, J.

This is petition seeking cancellation of anticipatory bail allowed to respondent no. 2-Ashok Kumar by Additional Sessions Judge, Jhajjar.

2. FIR was registered on the complaint by petitioner wherein he alleged that respondent no. 2-Ashok Kumar had agreed to sell 3/4th share of land measuring 57 *kanals* 6 *marlas* @ ₹2,10,00,000/- per acre vide agreement dated 12.07.2016. On the same day he had agreed to sell 4/5th share of land measuring 15 *kanals* 3 *marlas* @ ₹1,61,00,000/- per acre. A sum of ₹16,63,000/- was paid to him as earnest money and another sum of ₹77,00,000/- was paid later. At the time of agreement respondent no. 2-Ashok Kumar had represented himself as owner of the land and his intention was to cheat the petitioner. He sold the land agreed to be sold to petitioner to Atul Singal son of Suresh Chander Singal, Kavita Singal, his wife and Anoop Kumar son of Suresh Kumar vide sale deed dated 05.10.2016. While he had agreed to sell this land for ₹3,77,00,000/- but vide

sale deed dated 05.10.2016, it was sold for ₹76,58,500/-. In this manner he

had committed offence punishable under Sections 420/467/468/471 and 120-B IPC.

3. Learned counsel for the petitioner has argued that respondent no. 2-Ashok Kumar entered into agreement to sell the land with petitioner on 12.07.2016 but on 05.10.2016 sold the same land to other persons. This shows that he was having the intention to cheat the petitioner. Relying on observations of Hon'ble Madras High Court in case of **C. Ramalingam vs. S. Geetha and others, 2014 (27) RCR (Criminal) 95**, he has argued that fraud played upon by respondent no. 2 cannot be viewed lightly and learned Additional Sessions Judge has not taken note of the fact that respondent no. 2, within three months of his entering into agreement with petitioner, has cheated him by selling the land to other persons.

4. In case of ***C. Ramalingam (supra)***, the accused had claimed title falsely, grabbed the property of complainant and sold away the same to many purchasers. Facts of that case, as discussed in para 12 of the judgment, are reproduced as follows:-

“12. From the above facts and circumstances, it is crystal clear that there is a fraud played in the matter. The documents, which have been produced before this court themselves, were all forged, for which, there are prima facie materials. From the facts it is prima facie seen that by forging the Chitta and Adangal extracts and other revenue records, Accused 1 to 3 have claimed title falsely, grabbed the property and sold away the same to too many purchasers. Many of them may be innocent purchasers. The de facto complainant's wife is one of the

victims of such fraud. But, before the court below by producing the very same forged documents, the Accused 1 and 2 and also A3 have obtained anticipatory bail. Fraud played upon the court cannot be viewed lightly. Therefore, in my considered opinion, the anticipatory bail granted by the court below to Accused 1 and 2 and 3rd Accused, because of the fraud played upon the court by the Accused by producing the fake documents, cannot be allowed to sustain. Therefore, I am inclined to cancel the anticipatory bail granted to Accused 1 and 2 and also to the 3rd Accused by the learned Principal Sessions Judge, Chengalpattu.”

5. Facts of present case are clearly different and distinguishable from facts of above referred case, as such, observations of Hon'ble Madras High Court made therein are of no help to petitioner to seek cancellation of bail of respondent no. 2.

6. The execution of agreement in favour of petitioner was not disputed before learned Additional Sessions Judge, where respondent no. 2 had alleged that he had adjusted the payment made to him by petitioner in the price of land for which sale deed was executed. Whatever the case may be, the question to be seen is as to whether custodial interrogation of respondent no. 2 in this case, which is based on documentary evidence, is required? The transaction between the petitioner and respondent no. 2 is a civil transaction. The remedy of seeking specific performance of agreement to sell executed in favour of petitioner is available to petitioner but appears to have not been availed by him so far. Respondent no. 2 is admitting the

agreement in his favour. There was no cheating with the petitioner at the time of execution of agreement. It is a matter of investigation whether execution of sale deed by respondent no. 2 on 05.10.2016 attracts provisions of Section 420 IPC? No document, which has been forged and then used as genuine, has been pointed out during course of arguments to attract provisions of Section 467/48/471 IPC. It is nowhere the case of petitioner that respondent no. 2 has misused the bail allowed to him.

7. Keeping in view above facts, I find no reason for cancellation of anticipatory bail allowed to respondent no. 2 by Additional Sessions Judge, Jhajjar.

8. This petition has no merit and the same is dismissed.

July 11, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***