

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-M-27091-2012 (O&M)

Gurpreet Kaur and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

2. CRM-M-39171-2013 (O&M)

Satish Kumar Talwar

..... Petitioner

Versus

State of Punjab and another

..... Respondents

Date of decision: 27.07.2018

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vivek Goel, Advocate
for the petitioners (in CRM-M-27091-2012).

Mr. Rajiv Joshi, Advocate
for the petitioner (in CRM-M-39171-2013).

Mr. Davinder Bir Singh, DAG, Punjab.

Ms. Isha Goel, Advocate
for respondent No. 2-complainant (in both cases).

RAMENDRA JAIN, J. (ORAL)

1. This order shall dispose of above titled two petitions under Section 482 Cr.P.C., for quashing FIR No. 91 dated 10.05.2012 registered under Sections 420, 465, 467, 468, 471 and 120-B IPC at Police Station Phillaur, District Jalandhar (Annexure P-1 in CRM-M-27091-2012). For brevity, the facts are being extracted from CRM-M-27091-2012.

2. Put pithily, co-accused-Avtar Singh S/o Sewa Singh, vide agreement dated 10.01.2012 (Annexure P-2), agreed to purchase land measuring 243 Kanals 15 marlas, situated in the area of village Tehang Bachhowal, at the rate of ₹ 33 Lakhs per acre from another Avtar Singh S/o Jarnail Singh. After three months therefrom, purchaser-Avtar Singh S/o Sewa Singh, on 02.04.2012, agreed to sell the same land to complainant-respondent No. 2-Joginder Singh S/o Gian Singh, vide agreement Annexure P-3, at the rate of ₹ 36,60,000/- per acre and received ₹ 1 crore as earnest money, at the time of execution of aforesaid agreement, in the presence of Gurpreet Kaur D/o Harjit Singh, Palwinder Singh @ Binder S/o Harbans Singh (petitioners in CRM-M-27091-2012) and Satish Kumar Talwar S/o Madan Lal Talwar (petitioner in CRM-M-29171-2013). Further, a sum of ₹ 50 lakhs was paid by the complainant to Avtar Singh S/o Sewa Singh, on the next day i.e. 03.04.2012, at the shop of Satish Kumar Talwar, aforesaid. Thereafter, the subsequent purchaser-complainant-Joginder Singh, came to know that neither his vendor Avtar Singh S/o Sewa Singh nor Avtar Singh S/o Jarnail Singh, vendor of his vendor were the owners of the land agreed to be sold to him. In fact, Avtar Singh S/o Sewa Singh, in connivance with the petitioners, namely; Gurpreet Kaur, Palwinder Singh @ Binder and Satish Kumar Talwar and 8-9 other persons, out of whom some are mentioned in FIR (Annexure P-1) by hatching a criminal conspiracy cheated him. With these broad allegations, he got impugned FIR (Annexure P-1) registered against his vendor-Avtar Singh S/o Sewa Singh and the petitioners, besides 4-5 other un-known persons.

3. During investigation, a compromise dated 04.07.2012 (Annexure R-2/2) and affidavits of complainant-Joginder Singh Cheema

(Annexure R-2/3) and his vendor-Avtar Singh S/o Sewa Singh (Annexure R-2/4), were produced before the Investigating Officer, testifying the complicity of the petitioners as conspirators. It was mentioned in the affidavit of Avtar Singh S/o Sewa Singh (Annexure R-2/4) that the entire amount except ₹ 52,00,000/- out of ₹ 1,50,00,000/- i.e. ₹ 98,00,000/- was taken away and distributed by the petitioners and other co-accused amongst them. That apart, Avtar Singh S/o Sewa Singh also agreed to repay the amount of ₹ 52,00,000/- which had come to his share and issued two cheques bearing Nos. 317246 and 317247 of ₹ 21 lakhs each of his wife's bank account and paid ₹ 10,00,000/- in cash. Later on, the aforesaid cheques were dis-honoured. The police had also found involvement of the petitioners and, thus, filed final report under Section 173(2) Cr.P.C. against them as well and they have also been charge-sheeted under Sections 465, 467, 468 and 471 IPC for hatching conspiracy with Avtar Singh S/o Sewa Singh, vendor of the complainant.

4. Learned counsel for the petitioners contend that no payment as per version of the complainant in the FIR, was ever handed over by him to the petitioners. Neither any document was executed nor signed by the petitioners. Even they are not the marginal witnesses to any of the alleged agreement in between co-accused-Avtar Singh S/o Sewa Singh and respondent No. 2-Joginder Singh (complainant). Their presence has been shown at the time of execution of agreement and handing over the amount of ₹ 1,50,00,000/- by respondent No. 2-complainant to co-accused-Avtar Singh S/o Sewa Singh, which is not the part of final report under Section 173(2) Cr.P.C. Therefore, the petitioners are not liable to prosecuted.

5. On the other hand, learned State counsel assisted by learned

counsel for the complainant-respondent No. 2-Joginder Singh, vehemently opposed the submissions made by learned counsel for the petitioners.

6. Having given considerable thoughts to the submissions made by learned counsel for both the parties, this Court finds both the petitions, completely devoid of any merit, for the reasons to follow:

7. In affidavit Annexure R-2/4 and compromise Annexure R-2/2 (in CRM-M-27091-2012), sharing of duped amount by the petitioners, specifically recited/testified by co-accused-Avtar Singh S/o Sewa Singh, cannot be brushed aside lightly, inasmuch, as respondent No. 2-complainant was cheated by hatching conspiracy for a handsome amount worth ₹ 1,50,00,000/-. Cheating of such a huge amount practically is impossible without connivance of more than two persons, inasmuch, as one has to be act as a mediator, the other as a vendor and third or fourth person as a witness to the transaction. At this stage, complicity of the petitioners, in view of affidavit and compromise (Annexures R-2/4 and R-2/2, respectively) with co-accused-Avtar Singh S/o Sewa Singh, cannot be doubted. Its genuineness can only be ascertained during trial, inasmuch, as evidence led before a Court requires due deliberation and appreciation.

8. That apart, charge has already been framed against the petitioners. At that time, the petitioners did not raise any such contentions which they have now raised in their respective petitions before this Court. The FIR was registered in the year 2012 and the charges were framed against co-accused-Avtar Singh S/o Sewa Singh and petitioners herein, in the year 2013. Trial is un-necessarily held up at the behest of the petitioners, on account of filing of these two petitions for quashing of FIR.

Otherwise, by this time the trial must have been concluded either

exonerating the petitioners or holding them guilty.

9. In view of the discussion made above, both the petitions i.e. CRM-M-27091-2012 and CRM-M-39171-2013, being completely devoid of any merits are dismissed.

July 27, 2018
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No