

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No.M-24506 of 2015 (O&M)
Date of decision : 02.08.2018

Ajit Kaur and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. A.K.Kalsy, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(Oral)

The petitioners have preferred the instant petition under Section 482 Cr.P.C. to quash the FIR No.170 dated 02.07.2015, registered under Sections 420, 120-B IPC at Police Station Division No.5, Ludhiana.

The petitioners were agreed to sell their land for a sum of Rs.1,10,00,000/- and agreement was executed on 07.05.2012. They received Rs.10,00,000/- as earnest money on that day and Rs.15,00,000/- on 07.06.2012. It was also stipulated between the parties that another amount of Rs.15,00,000/- shall be paid on 07.09.2012 and the sale deed agreed to be executed on 07.02.2013. It is alleged by the petitioners that the last two installments had not been paid. Therefore, they got served legal notices upon the respondent and also filed civil suit for cancellation of an agreement to sell, which is still pending.

On the other hand, respondent Nos.2 and 3 lodged FIR. Even after making the payment of Rs.25,00,000/- to the petitioners they failed to

execute the sale deed.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has placed reliance upon the judgments of Hon'ble Supreme Court in **Inder Mohan Goswami & Another vs. State of Uttaranchal & Others** 2007 (4) RCR (Criminal) 548; **Ram Biraji Devi and anr. vs. Umesh Kumar Singh and anr.** 2006 (3) RCR (Criminal) 308; **State of Maharashtra vs. Sayed Mohammed Masood & Anr.** 2010 (1) RCR (Criminal) 177; the judgment of Delhi High Court in **Kanshi Ram vs. State** 2000 (3) R.C.R. (Criminal) 557 as well as the judgments of this Court in **Jamiat Singh vs. State of Punjab and another** 2008 (1) R.C.R. (Criminal) 1032 and **Syngenta India Limited & Others vs. State of Punjab and another** 2008 (3) RCR (Criminal) 253.

A bare perusal of the vernacular of the agreement of sell (Annexure P-1) transpires that there is cutting/overwriting on the date. Earlier some other date was mentioned. Lateron, it was converted into 07.09.2012 and the same was not attested. The petitioners have already received the huge amount but they unilaterally repudiated the contract and misappropriated the amount which was an entrustment in view of Section 55 of the Transfer of property Act.

Learned counsel for the petitioners has relied upon the legal opinion given by District Authority (Legal), Ludhiana which is a part of the FIR. The said opinion reads as under:-

“On which D.A.Legal Sahib as per their opinion, has written in his letter no.745 dated 17.9.2014 that as per agreement, Ajit Kaur etc. had entered into an agreement to sell with Harpal Kaur wife of Gurcharan Singh regarding the property

in Rs.1,10,00,000/-. On 7.5.2012, Rs.10,00,000/- have been given by the wife of the applicant. As per agreement, the seller party has received Rs.15 Lacs on 7.6.2012 and Rs.15 Lacs on 7.9.2012 were to be given to Ajit Kaur etc. and the date of the execution of the sale deed was fixed as 7.2.2013. As per agreement, the seller party has received Rs.15 Lacs on 7.6.2012. As per file record, no further money has been given by the applicant party to the respondent party. Ajit Kaur etc. have filed a civil case regarding cancellation of agreement dated 7.5.2012. The applicant party has got recorded in the statement that the respondent party had refused to receive third installment of Rs.15 Lacs. On the date of the execution of the sale deed, no presence of the applicant party was marked in the Registrar Office. There is a matter between the parties regarding purchasing the property and receiving the money and both the parties can initiate court case and no police action is required in this regard.

The petitioner has caused wrongful loss to the respondent.

However, the law laid down in the aforesaid judgments is not applicable in this case.

In view of aforesaid discussion, no case is made out.

Therefore, the instant petition stands dismissed.

**(RAJ SHEKHAR ATTRI)
JUDGE**

02.08.2018

mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No