

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

201

**CRM-M-36921-2012 (O&M)
Date of decision:19.11.2018**

Rafika

..... Petitioner

Versus

Kamruddin

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. S.M. Sharma, Advocate
for the petitioner.

Ms. Shelja Sharma, Advocate
for Mr. Rajesh Lamba, Advocate
for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., accused Rafika has sought quashing criminal complaint No. 96 dated 07.04.2010 registered under Sections 420, 467, 468, 471, 472, 506 and 120-B IPC in which she has been summoned, vide order dated 03.02.2012 (Annexure P-7) by the Judicial Magistrate Ist Class, Nuh/Mewat.

Briefly, one Rodhu agreed to sell his land to petitioner vide agreement dated 14.06.2005. The petitioner, on coming to know that he was intending to sell land to some third party, she filed a suit for permanent injunction against him, which was subsequently converted in a suit for specific performance of contract. During the pendency of the said suit, Rodhu in pursuant to compromise between them executed sale deed dated

29.03.2010 (Annexure P-3) in favour of petitioner.

Later on, petitioner came to know that her vendor Rodhu had also entered into some agreement to sell dated 27.02.2006 with the respondent, who had filed aforesaid complaint against his vendor Rodhu, arraying the petitioner as a party, in which she was summoned vide order dated 03.02.2012(Annexure P-7).

Learned counsel for the petitioner contends that there was no privity of contract between the petitioner and respondent. The petitioner had transacted with Rodhu and not with respondent-Kammrudin. The petitioner is a bonafide purchaser of the land on the basis of prior agreement to sell, through registered sale deed dated 29.03.2010 (Annexure P-3). She had nothing to do with the alleged agreement dated 27.02.2006 executed by her vendor Rodhu in favour of the respondent or with any other transaction by her vendor Rodhu entered into by him during the pendency of her suit for specific performance against him. The trial Court has, without appreciating above facts, illegally summoned the petitioner vide order dated 03.02.2012 Annexure P-7.

On the other hand, learned proxy counsel for the respondent refuting the above facts, contends that the petitioner was well aware of execution of agreement dated 27.02.2006 in between her vendor Rodhu and the respondent and also the pendency of a civil suit filed by respondent against Rodhu. Despite that, she wrongly and illegally got executed sale deed dated 29.03.2010 (Annexure P-3) in her favour to cheat and commit fraud with the respondent.

Having given thoughtful consideration to the submissions

of both the sides, I find the instant petition merits acceptance for the reasons that the petitioner was not a party to the agreement dated 27.02.2006 (Annexure P-3) executed by her vendor Rodhu in favour of the respondent. Therefore, no question arises of her knowledge about the same.

More so, even if, the petitioner had knowledge of any such document, she was not liable to be summoned under Section 420 IPC inasmuch as she did not commit any fraud with the respondent.

Petitioner had purchased land from Rodhu, pursuant to her agreement with him. Therefore, was only Rodhu Vendor, who had to be summoned for cheating and committing fraud with the respondent.

Even filing of application by petitioner under Order 1 Rule 10 CPC in a suit filed by respondent against Rodhu did not make her liable for prosecution inasmuch as during the pendency of her suit for specific performance of contract against Rodhu, a compromise was effected between them and sale deed was executed on 29.03.2010.

The petitioner was never restrained by any Civil Court in a suit filed by the respondent from getting executed/registered any sale deed by Rodhu in her favour. Therefore, having her alleged knowledge of agreement to sell dated 27.02.2006 executed by her vendor Rodhu in favour of respondent is meaning-less and did not affect her rights from any angle.

The respondent has miserably failed to prove the alleged cheating or fraud with the petitioner. Mere allegations of

respondent against the petitioner of cheating for getting the sale deed (Annexure P-3) executed/registered from her vendor Rodhu in her favour, does not attract the ingredients of commission of offence under Section 420 IPC.

Consequently, Criminal complaint No. 96 dated 07.04.2010 registered under Sections 420, 467, 468, 471, 472, 506 and 120-B IPC (Annexures P-6) including that of impugned order dated 03.02.2012 (Annexure P-7) of the trial Court, summoning the petitioner under Section 420 IPC, are quashed qua the petitioner only.

November 19, 2018

Poonam (II)

**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No