

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

**Criminal Misc. No.M-35813 of 2018 (O&M)
Date of Decision: September 27, 2018**

Balbir through his LRs

.....PETITIONER(s).

VERSUS

State of Haryana and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sunil Kumar Nehra, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Heard.

FIR No.16 dated 02.02.2010 was registered on the statement of petitioner for the offences punishable under Sections 420, 467, 468, 471 read with Section 120-B of Indian Penal Code at Police Station Nathu Sarai Chopta, District Sirsa.

As per case of the petitioner-complainant, he had entered into an agreement to purchase land measuring 30 kanals 7 marlas with Nathu Ram and later on he came to know that Nathu Ram was not owner of 30 kanals 7 marlas of land as out of his total land measuring 44 kanals 4 marlas, he had already suffered a decree of half of his share in favour of his wife Bimla and minor son Megh Singh on 07.04.1995 and sold 8 kanals of land after that decree. He was left with only 14 kanals 2 marlas of land under his ownership and by proclaiming himself to be owner of 30 kanals 7 marlas of land, he entered into an agreement to sell the same to the petitioner.

During the pendency of the trial, an application under Section 319 Cr.P.C. was moved to summon Bimla Devi and Megh Singh, owners of half share of total land measuring 44 kanals 4 marlas with the plea that both had major role in commission of crime of cheating the petitioner and were having the knowledge that Nathu Ram had entered into an agreement to sell the land measuring 30 kanals 7 marlas and received earnest money of ₹3,36,000/-.

Admittedly, petitioner Megh Singh was minor at the time of decree in his favour as he was born on 15.07.1988. Even at the time of agreement dated 20.11.2006, he had just attained the age of majority. Learned trial Court while declining the application of petitioner has observed that there is no whisper in the complaint or application that Bimla Devi or Megh Singh were present at the time of agreement to sell or have put their signatures/thumb impressions on it. From the allegations in the complaint and from the statement of petitioner before the Court, I find no reason to summon respondents No.2 and 3 to face trial as additional accused. Even if, the decree in their favour was not incorporated in the revenue record, they cannot be blamed or held as conspirator with Nathu Ram in entering into agreement for the sale of their land. Nathu Ram is stated to have already been convicted by the trial Court for the crime committed by him.

This petition has no merits. Dismissed.

September 27, 2018

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No