

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

Sr. No.217

CRR-2938-2011

Date of decision : 17.04.2018

Angoori Devi

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Madan Gopal Gupta, Advocate, for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

SUDHIR MITTAL, J. (Oral)

The complainant-Ramesh Chand had purchased agricultural land total measuring 72 kanals and 1 marla from the petitioner-Angoori Devi for a consideration of Rs.9 lacs through two sale deeds. The sale deeds recited that the property was free from all encumbrances, but in fact, there was a dispute regarding ownership of the same, which was kept concealed from the complainant. Thus, the complainant did not get a clear title by virtue of the sale deeds resulting in the lodging of the present FIR. Vide judgment dated 28.07.2010, the learned trial Court convicted the petitioner under Section 420 IPC and vide order dated 29.07.2010, she was sentenced to undergo SI for two years and to pay fine of Rs.2,000/-, in default of payment of which, to further undergo SI for fifteen days. Appeal of Angoori Devi was rejected vide order dated 11.11.2011 by the Addl. Sessions Judge, Faridabad.

2. Learned counsel for the petitioner submits that Angoori Devi is an illiterate rustic villager. Her property was handled by her late husband-Nanak Chand and she was not aware of his dealings. The sale

deeds were executed by her under his directions and she did not understand the nature of the transactions. Further, the petitioner is now an old lady aged about 67 years. She has undergone incarceration for one month and fourteen days out of the maximum sentence of two years. She has also undergone the agony of a protracted trial and thus, she has suffered on account of her ignorance. A prayer is made for sentencing her to the period already undergone.

3. The contention of learned counsel for the petitioner is opposed by the learned State counsel. He submits that the petitioner intentionally cheated the complainant by mis-representing that the property sold by her was free from all encumbrances. The plea that she is a rustic villager is an afterthought as it has not been raised before either of the Courts below and is an attempt to gain sympathy of the Court.

4. I have heard learned counsel for the parties at length and have also perused the record of the case with their able assistance. The record does indicate that the petitioner induced the complainant to purchase disputed property and this resulted in causing wrongful loss to him. Thus, the findings of conviction returned by the Courts below cannot be faulted and there is no ground to interfere therewith. The same are accordingly upheld.

5. However, considering the fact that presently the petitioner is in advanced age and does not have any previous criminal record, she does not deserve to be sent back to prison. She has already undergone actual custody of one month and fourteen days and has also suffered the agony of a protracted trial. Thus, having regard to the circumstances of the case, the

ends of justice would be met by releasing the petitioner on probation instead of sentencing her.

6. Accordingly, the impugned judgment of conviction dated 28.07.2010, passed by the Judicial Magistrate First Class, Faridabad and upheld by the Addl. Sessions Judge, Faridabad vide judgment dated 11.11.2011, is maintained and that instead of sentencing her, the petitioner-Angoori Devi, is directed to be released on probation on her entering into a bond in the sum of Rs.25,000/- for a period of two years with one surety in the like amount, to appear and receive sentence when called upon during that period and in the meantime to maintain peace and be of good behavior.

7. The petitioner shall furnish the probation bond, ibid, to the satisfaction of the Court of convicting Magistrate/Chief Judicial Magistrate/Duty Judicial Magistrate, Faridabad.

8. Except the above modification, the instant revision petition stands dismissed. A copy of this judgment be sent to the Court/successor Court of the convicting Magistrate/Chief Judicial Magistrate/Duty Judicial Magistrate for compliance.

(SUDHIR MITTAL)
JUDGE

17.04. 2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No