

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6269-2018
Date of decision: 04.09.2018

Ramwati and another

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

Mr. Amritpal Singh Gill, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail to the petitioners in FIR No.170 dated 06.12.2017 under Sections 420, 120-B IPC, registered at Police Station Division No.3, District Ludhiana.

While granting interim bail to the petitioners, following order was passed on 01.03.2018: -

“Counsel for the petitioners has submitted that as per the allegations in the FIR, petitioner No.1 – Ramwati widow of Valati Ram and petitioner No.2 – Paramjit Kaur wife of Harbans Singh have entered into agreement to sell with Gurbir Singh on 18.01.2015 and instead of executing a sale deed in favour of the

complainant, they have sold the land in favour of one Harpreet Singh vide sale deed dated 06.01.2017. It is further submitted that a perusal of the sale deed (Annexure P2) show that the complainant himself is a witness to the sale deed executed in favour of Harpreet Singh and, therefore, the sale deed was executed on the asking of the complainant – Gurbir Singh. Counsel for the petitioner has further submitted that a Civil Suit No.256 was instituted on 08.01.2016 by Harpreet Singh against both the petitioners praying for decree of possession by way of specific performance of agreement to sell dated 22.12.2015 and the said suit was decreed ex parte and the complainant – Gurbir Singh appeared as PW2 in the said civil suit which also show that the complainant and the purchaser – Harpreet Singh are known to each other and the said suit decreed ex parte on 25.02.2016 (Annexure P3). It is further submitted by counsel for the petitioners that the agreement to sell dated 18.01.2015 is in favour of two persons i.e. the complainant – Gurbir Singh and one Kulwinderpal Singh. Counsel for the petitioners has further submitted that Kulwinderpal Singh has also filed a civil suit for recovery of an amount of Rs.20 lacs against the petitioners and the same was also decreed ex parte vide judgment and decree dated 18.02.2015 and in the execution proceeding, when the property of the petitioners was put to auction, the complainant – Gurbir Singh and the purchaser – Harpreet Singh were the proposed bidders as per the proceedings regarding the auction held on 16.11.2015 (Annexure P5). Counsel for the petitioners has, thus, submitted that the complainant – Gurbir Singh, Kulwinderpal Singh, Harpreet Singh and Jagtar Singh (a relative of the petitioners) have manipulated the entire proceedings and the petitioners have been falsely implicated in the FIR.

In reply, counsel for the State, on instructions from ASI Gurcharan Singh, assisted by counsel for the complainant has, however, submitted that the co-accused – Harbans Singh who is

husband of petitioner No.2 has already been arrested and the proceedings for declaring the petitioners as proclaimed offenders are pending.

Counsel for the complainant has submitted that despite the agreement to sell executed in favour of the complainant, the petitioners have executed a sale deed in favour of Harpreet Singh and, therefore, they have committed the offence of cheating.

Without commenting anything on merits of the case and considering the fact that the complainant himself is an attesting witness to the sale deed in favour of Harpreet Singh and Harpreet Singh when filed a suit for specific performance against the petitioners, the said Gurbir Singh (complainant) appeared as PW2 in the civil suit and also in view of the fact that the second proposed buyer as per the agreement to sell dated 18.01.2015 i.e. Kulwinderpal Singh has got an ex parte decree of recovery of Rs.20 lacs against the petitioners and in the execution proceedings, the complainant – Gurbir Singh and Harpreet Singh have participated to purchase the house of the petitioners, it is a case where the police has to investigate the conduct of the complainant, Harpreet Singh, Kulwinderpal Singh along with the petitioners....”

Learned State counsel, on instructions from ASI Jagdish Raj, submits that the petitioners have joined the investigation and they are no more required for any further investigation.

Learned counsel for the petitioners has also drawn attention to the orders dated 16.08.2018 passed by the Civil Judge Junior Division, Ludhiana, vide which the ex-parte decree (Annexure P-4) has been set aside and the suit is restored to its original number and similarly, even the execution application, in pursuance of the ex-parte decree (Annexure P-4), is also dismissed as infructuous, as the suit has been restored.

In view of the above, this petition is allowed and the interim bail granted to the petitioners vide order dated 01.03.2018 passed by this Court is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

[ARVIND SINGH SANGWAN]
JUDGE

04.09.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No