

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9950-2017 (O&M)

Date of decision: 19.12.2018

Paramjit Singh

.....Petitioner

versus

State of Punjab

....Respondent

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Ashok Kumar Nabhewala, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

Kuldip Singh, J. (Oral)

This order shall dispose of the petition filed by the petitioner-Paramjit Singh under Section 482 Cr.P.C. for quashing of FIR No.126 dated 25.12.2015, under Section 420 of Indian Penal Code, registered at Police Station Chamkaur Sahib, District Rup Nagar.

Facts of the case are that Satya Devi wife of Joginder Singh made a complaint to the police that her husband Joginder Singh has sold the land measuring 8 marla and 8 sarsahi situated at Village Chamkaur Sahib on 14.08.2015 for sale consideration of Rs.6,67,000/- to the present petitioner-Paramjit Singh. The present petitioner-Paramjit Singh has paid only Rs.30,000/- to her husband and has refused to pay the balance sale consideration. The complainant further submitted that her husband is habitual of taking intoxicant. She further prayed to the police that vendee-

Paramjit Singh be called and her balance amount be got recovered. On the basis of this, enquiry was got conducted and the case under Section 420 IPC was registered.

Petitioner claims that it is a misuse of process of Court. No criminal case is made out. Rather complainant has been cheated and in place of the land shown to him, land of grave yard was sold to him. He had filed Civil Suit No.CS/765/2015 on 20.09.2015 for permanent injunction against respondents No.2 & 3 namely Satya Devi and Joginder Singh, in which, status quo regarding alienation has been issued.

State in the reply has reiterated that complaint was received and after enquiry, the case has been registered.

I have heard learned counsel for the parties and carefully gone through the file of the case.

Plain reading of the FIR reproduced above goes to show that Joginder Singh is said to have sold land measuring 8 marla, 8 sarsahi to the present petitioner-Paramjit Singh for Rs.6,67,000/- and that only Rs.30,000/- was paid. Satya Devi-wife of Joginder Singh claimed that balance amount be got recovered from the vendee. No prayer was made for registration of the FIR. Assuming that whatever is stated in the complaint is correct, it only goes to show that the entire sale consideration mentioned in the sale deed was not paid. Therefore the proper remedy was to file a suit for cancellation of sale deed or recovery of the balance sale consideration. There are no allegation of dishonestly cheating Joginder Singh. In this case, Joginder Singh was the vendor. Joginder Singh never filed a complaint that

he has been cheated or less sale consideration has been paid to him. A copy of the sale deed (Annexure P-1/B) on file shows that entire amount is recorded to have been paid. The petitioner has also produced on file copy of the receipt (Annexure P-1/A) showing that Joginder singh has executed the receipt in the presence of the witnesses regarding receipt of full and final payment on the day of execution of sale deed i.e. 14.08.2015.

Learned State counsel has further argued that in this case, out of 19 witnesses, 12 witnesses have been examined.

I am of the view that the said fact is immaterial. If the Court finds that the process of Court is being misused, this Court can always quash the complaint and FIR at any stage. Since from the facts alleged in the FIR, the offence under Section 420 IPC is not made out and husband of the complainant-vendor has not made any complaint and basically it is a dispute of civil nature, therefore, the present petition is allowed. FIR No.126 dated 25.12.2015, under Section 420 of Indian Penal Code, registered at Police Station Chamkaur Sahib, District Rup Nagar along with all consequential proceedings, stands quashed.

(KULDIP SINGH)
JUDGE

19.12.2018
anju rani

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes