

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

CRR-2438-2018 (O&M)

1. Vimmy @ Anju Aggarwal ... Petitioner

Versus

State of Punjab ... Respondent

2. **CRR-2526-2018 (O&M)**

Vinay Kumar ... Petitioner

Versus

State of Punjab ... Respondent

3. **CRR-2541-2018 (O&M)**

Paramjit Singh ... Petitioner

Versus

State of Punjab ... Respondent

Date of Decision: 24.8.2018

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Yogesh Goel, Advocate for the petitioner
in CRR No. 2438 of 2018.

Mr. Ankit Kumar, Advocate for the petitioner
in CRR No.2526 of 2018.

Mr. D.S. Kahlon, Advocate for the petitioner
in CRR No.2541 of 2018.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

GURVINDER SINGH GILL, J.

1. This judgment shall dispose of above mentioned three revision petitions
filed on behalf of Vimmy @ Anju Aggarwal, Vinay Kumar and Paramjit

Singh challenging judgment dated 10.7.2018 passed by learned Additional Sessions Judge, Ludhiana, whereby appeals filed by them against judgment dated 6.11.2013 passed by learned Judicial Magistrate 1st Class, Ludhiana convicting them for offences punishable under Sections 419 and 420 read with Section 120-B of Indian Penal Code, 1860, have been dismissed.

2. The FIR, in the present case, was lodged at the instance of Pavitpal Singh, who alleged that he had met one property dealer namely Pardip Kumar who told him that one plot measuring 1766 square yards situated at Barewal Awana, District Ludhiana had been shown to him by one seller. It is alleged that Pardip Kumar called the said seller Vinay Kumar Dhir on telephone, who turned up along with Paramjit Singh and his wife Vimmy and who showed the plot in question to complainant. The complainant became interested in the said plot. The aforesaid persons were asked to bring the documents in respect of the property in question. On 9.5.2002, the aforesaid Vinay Kumar Dhir, Paramjit Singh and Vimmy came to the office of Pardip Kumar and represented that they are in dire need of money and that they will get the sale deed registered immediately and thus a deal was struck for an amount of ₹ 21 lacs. The accused, however, did not get the documents and it was stated that Anju Aggarwal had got sale deed executed and registered in favour of Vinay Kumar Dhir and that the sale deed had been sent for effecting mutation. It was further stated that Anju Aggarwal is with them. Vimmy @ Anju Aggarwal also endorsed this fact. The accused stated that they would furnish the sale deed in favour of Vinay Kumar Dhir and also the original sale deed in the name of Anju Aggarwal and believing the said

representation to be correct, an agreement for sale of property in favour of the complainant was entered into. The complainant gave an amount of ₹ 20 lacs to the accused in the presence of Pardip Kumar and witness Jagdev Singh. The accused stated that they would hand over the sale deeds and the mutation to the complainant shortly but despite the complainant having made several telephone calls subsequently to the accused, they kept on dilly dallying the matter and did not get the sale deed registered.

3. It is further the case of the complainant that on 7.8.2002, the complainant read a news item in newspaper "Punjab Kesari" that some persons had sold off a plot situated at Hambra road by way of forged sale deed and upon inquiry, the complainant came to know that the said persons who had effected the said forged sale deed had been arrested. The complainant along with Pardip Kumar went to the Police Station where they saw Vinay Kumar Dhir and Paramjit Singh in police custody. Paramjit Singh had been arrested but his name was mentioned as Ashok Kumar. The complainant informed the police that the said so called Ashok Kumar had met the complainant and had represented himself to be Paramjit Singh and was accompanied by a lady who disclosed herself to be Anju Aggarwal and had sold off the plot in question to him and taken an amount of ₹ 20 lacs as earnest money.
4. The complainant came to know at the Police Station that the said persons had again sold off the plot in question to one Vasdev Gupta @ ₹ 2950 per square yards and had taken an amount of ₹ 5 lacs as earnest money. The complainant also came to know that in fact the real owner of the plot namely Anju Aggarwal resides in Howrah and had not sold the plot to anybody. It

further transpired that in fact a forged sale deed had been executed in the name of Vinay Kumar Dhir by Vimmy impersonating as Anju Aggarwal and that Paramjit used to represent himself as Ashok Aggarwal husband of Anju Aggarwal. It is, thus, alleged that all the accused in connivance with each other had got executed and registered a forged sale deed initially in the name of Vinay Kumar Dhir with Vimmy impersonating as owner Anju Aggarwal and thereafter had duped the complainant of an amount of ₹ 20 lacs by representing themselves as owners.

5. The matter was investigated by the police and challan was presented against the accused and charges were framed against the accused for offences under Sections 419, 420, 467, 468, 471 read with Section 120-B IPC.
6. The prosecution, in order to establish its case, examined the complainant PW-1 Pavitpal Singh, PW-2 Anju Aggarwal, PW-3 Pardip Kumar, PW-4 Jagdev Singh, PW-5 Kamal Goel, PW-6 Rachhpal Singh, PW-7 Mukesh Kumar, PW-8 S.I. Madhav Nand and PW-9 Head Constable Jasvinderpal Singh. The accused, in their statement recorded under Section 313 Cr.P.C denied the case of prosecution in toto.
7. The learned JMIC, Ludhiana vide judgment dated 6.11.2013 found all the three accused namely Paramjit Singh, Vinay Kumar and Vimmy guilty of having committed offences punishable under Section 419 and 420 read with Section 120-B IPC while acquitting them of charges framed for offences under Section 467, 468, 471 read with Section 120-B IPC. All the accused were sentenced to undergo rigorous imprisonment for two years in respect of each of the offence and also imposed fine amounting to ₹ 1,000/- for each

of the offence. The appeal filed by the accused challenging the aforesaid judgment was also dismissed by the learned Additional Sessions Judge, Ludhiana vide judgment dated 10.7.2018, which is being impugned by way of filing the present revision petitions.

8. The learned counsel for the petitioners, while assailing the impugned judgment have mainly argued that in fact the foundation of the case of prosecution is that initially Vimmy had impersonated as Anju Aggarwal and had allegedly executed a sale deed in favour of Vinay Kumar whereas the said foundation already stands demolished in an earlier trial conducted in respect of FIR No.65 dated 26.2.2003 under Section 420 IPC against the accused Vinay Kumar and Vimmy pertaining to said allegations of impersonation wherein they were acquitted by learned JMJC, Ludhiana vide judgment dated 1.8.2012. It is submitted that once the said allegations have already been negated, therefore, the present FIR is virtually an abuse of process of law and the prosecution in the present case is hit by principle of 'double jeopardy', as the accused Vimmy and Vinay Kumar had already faced trial in respect of offences in question.
9. On the other hand, the learned State Counsel has submitted that petitioners are professional con men and that after having executed a forged sale-deed in respect of plot belonging to real Anju Aggarwal, by way of impersonation, they went about talking innocent gullible purchasers into effecting transactions with them for sale of said plot and in fact "sold off" the said plot twice to two different persons namely the complainant Pavitpal Singh and later also to one Vasdev Gupta regarding which separate FIRs were

registered. It has, thus, been submitted that the accused by entering into a conspiracy and by representing Vinay Kumar to be owner and projecting Vimmy to be real Anju Aggarwal the previous owner had sold off the plot in question which they never owned and made the complainant part with an amount of ₹ 20 lacs and had thus committed an offence of cheating which itself is an independent offence and acquittal of accused in respect of their act of impersonation on earlier occasion would not have any bearing on the present case.

10. I have considered the aforesaid submissions. It is indeed correct that Vimmy and Vinay Kumar had faced trial in respect of FIR No.65 dated 26.2.2003 pertaining to allegations that Vimmy had impersonated as Anju Aggarwal and had executed a sale deed in respect of land belonging to Anju Aggarwal in favour of Vinay Kumar. The said FIR had been got lodged pursuant to an application submitted by real Anju Aggarwal herself. However, the complainant Anju Aggarwal, resident of Howrah, did not appear during the course of trial despite having afforded several opportunities and the prosecution evidence was ultimately closed by order. So much so, even the Attorney Rajesh Gupta did not step into the witness box and consequently the accused were acquitted.
11. No doubt, the aforesaid impersonation and execution of sale deed formed part of larger transaction and was not established in the separate trial conducted exclusively in respect of that impersonation, but subsequently these very accused cheated the present complainant by representing that Vinay Kumar was owner of the plot in question and by projecting Vimmy to

be Anju Aggarwal being his vendor and talked him into an agreement for purchase of the said plot in question for ₹ 20 lacs and by doing so they committed an offence which can even be segregated from earlier independent offence of impersonation by Vimmy as Anju Aggarwal and execution of sale deed in favour of co-accused Vinay Kumar.

12. Even if, the prosecution failed to establish the earlier case in respect of FIR No.65 but the same would not have the effect that the alleged sale deed in favour of Vinay Kumar stood validated. In the present case, in any case, the real Anju Aggarwal has stepped into the witness box and has deposed that she had not sold the property in question to anybody. The complainant, has specifically stated in tune with the allegations levelled in the FIR. Although, the learned counsel for the accused, referred to cross-examination of PW-1 Pavitpal Singh wherein he stated that he had not entered into any dealing with Vimmy in respect of the plot in question but the said part of the statement would only mean that Vimmy had not directly entered into any contract or had directly accepted any amount. However, the fact that Vimmy was present all along when the meetings between the complainant and the accused took place and had also represented herself to be Anju Aggarwal being vendor of Vinay Kumar would go a long way to show her complicity.
13. The statement of PW-1 Pavitpal Singh stands fully corroborated from the testimony of PW-3 Pardip Kumar and PW-4 Jagdev Singh. Upon perusal of the judgment of learned JMJC, Ludhiana and also of the learned lower Appellate Court, I do not find that there is any misappreciation or misreading of evidence on record. The evidence led by the complainant is

sufficient to establish the charges framed in respect of offences under Section 419 and 420 read with Section 120-B IPC against the accused for having duped the complainant of an huge amount of ₹ 20 lacs.

14. During the course of arguments, it was also submitted that once the accused have been acquitted in the present case of charges framed for offences under Sections 467, 468, 471 read with Section 120-B IPC, the accused could not have been held guilty for offences under Section 419 and 420 IPC.
15. I have considered the aforesaid submission. The offences under Section 419 and 420 IPC are in no case dependent upon any findings in respect of offences under Section 467, 468, 471 read with Section 120-B IPC and a person can well be convicted for the said offences once it is established that the complainant has been duped on the basis of misrepresentation by the accused that they are the owners. Although, the factum of forgery of the sale deeds etc. may not have been established, the fact remains that the accused were not the owner of the property in question and they had however, misrepresented that Vinay Kumar was the owner and they had all conspired together to make the complainant believe that Vinay Kumar is the owner and thus, made him part with an amount of ₹ 20 lacs.
16. I do not find any infirmity in the findings of learned trial Court and as affirmed by the learned lower Appellate Court and the same are hereby upheld. There is no merit in either of the revision petitions and the same are hereby dismissed.

24.8.2018

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No