

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1421 of 2018

Date of Decision:04.09.2019

RAJ KUMAR

...Petitioner

Versus

INDERJEET

..Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. J.P. Sharma, Advocate
for the petitioner.

Mr. Aditya Yadav, Advocate
for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 02.02.2018 passed by the Sub Divisional Judicial Magistrate, Kanina (for short-the Trial Court) dismissing an application filed by the petitioner seeking therein to lead additional evidence.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein specific performance of agreement to sell dated 05.09.2012, pertaining to agricultural land detailed and described in the head-note of the plaint (for short-the suit property).

On being put to notice, the respondent who was the defendant in the suit, appeared before the Trial Court and denied the petitioner's claim.

Thereafter the Trial Court framed issues. After the petitioner had led his entire evidence, an application was filed by him seeking therein to place on record additional evidence in the form of two criminal complaints filed by him against the respondent as also two other agreements allegedly executed by the respondent with other individuals qua the suit property. The Trial Court being of the opinion that the documents sought to be placed on record as additional evidence were irrelevant, dismissed the petitioner's application. Such order of the Trial Court is the subject matter of challenge in the present proceedings.

Learned counsel for the petitioner submitted that out of the aforesaid two criminal complaints and two agreements which the petitioner intended to produce as additional evidence, he be only permitted to produce the two criminal complaints filed by him against the respondent as according to him if he is not allowed to do so, at the time of final arguments, the Trial Court may take adverse inference against the petitioner for having not taken any action against the respondent qua the alleged fraud by him.

Learned counsel for the respondent submitted that the criminal complaints sought to be placed on record by the petitioner as additional evidence are only to delay the proceedings and that the same are not relevant.

The aforesaid two criminal complaints would show the action taken by the petitioner against the respondent for the alleged fraud committed by the respondent. Once these criminal complaints are brought on record, it would not be open to the respondent to raise the plea that the petitioner did not take any action against the respondent qua the allegations

of fraud being raised by him or that such pleas by him were an after thought. On the contrary, in case, these documents are not permitted to be produced as additional evidence, the respondent could submit that the petitioner remained silent qua the alleged fraud committed by the respondent and this could prejudice the petitioner's case.

In view of the above, the impugned order is set aside and the petitioner is permitted to produce additional evidence in the form of two criminal complaints filed by him against the respondent.

It is clarified that mere production of the aforesaid criminal complaints would not mean that the same stand proved and the evidentiary worth of the aforesaid documents would be considered by the Trial Court at the time of final arguments.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

September 04, 2019

Whether speaking/reasoned Yes/No Whether Reportable Yes/No