

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-18041 of 2018 (O&M)
Date of decision : September 09, 2019

Rohit Verma

....Petitioner

versus

Union Territory, Chandigarh

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr.RK Chugh, Advocate, for the petitioner

Mr. Rajiv Sharma, Addl. PP, UT Chandigarh

Mr. DD Tuteja, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This petition has come about by the accused-petitioner Rohit Verma who is facing trial in case bearing FIR No. 173 dated 29.8.2017 under Sections 323, 342, 376(2)(n) IPC, Police Station Sector-26, Chandigarh lodged on the complaint of complainant a widowed lady with a child. It was during the course of trial before the court concerned on the assurance of the accused present petitioner that he will undergo marriage with the complainant she

was coerced into entering an agreement dated 28.2.2018 and in consequence of which on 6.3.2018, the complainant acting on the basis of these assertions backed out of her stand of allegations before the court. It is thereafter the accused resiled from his undertaking and assurance of marrying the complainant. The complainant faced with this fraudulent act of the petitioner-accused moved an application before the trial court under Section 311 Cr.P.C. for recalling her as PW1 for re-examination.

The present petitioner accused in his response denied the maintainability of the application as well as the plea raised for enabling such prayer of the complainant. It is through an order dated 10.4.2018, the court of learned Additional Sessions Judge allowed the application and the complainant was ordered to be summoned for 2.5.2018 for her cross-examination. It is against this order, the accused-petitioner has come up in the present invocation under Section 482 Cr.P.C.

Heard Mr. RK Chugh, Advocate, for the petitioner; Mr. Rajiv Sharma, Addl. PP, UT Chandigarh; Mr. DD Tuteja, Advocate, for the complainant and perused the records.

It is very well writ large on the records that it was on the basis of a fraudulent representation by the petitioner to marry the

complainant, she has submitted herself to his physical needs and who thereafter backed out of it. It is subsequent upon registration of the criminal case and trial, the accused again devised a plan and entered into a settlement with the agreements dated 28.2.2018 and 17.1.2018 and thus, to frustrate his prosecution for such a heinous offence managed to ensure that the victim does not supports the prosecution story. Thus it enlists that it is on the basis of the agreement the complainant had with the accused petitioner it was done so and thereafter to frustrate the settlement, the accused petitioner has backed out of this. Thus, the conduct of the petitioner needs to be deprecated being impregnate with falsehood and deception. It is well settled principle of law that fraud vitiates the most solemn of the transactions and it is precisely what has transpired in this case. Further-more this Court in **Uppal Credit & Investment Pvt. Ltd. vs Ashwani Kumar, CRM-M No. 15173 of 2012, decided on 22.3.2016** had held that any order passed in an application under Section 311 Cr.P.C. being intermediary order is amenable to revision and that further powers under Section 482 Cr.P.C. are to be exercised sparingly to meet the ends of justice and can only be exercised where there is no remedy provided under the Code of Criminal Procedure for redressal of the grievance. Thus,

even from that legal angle, petition under Section 482 Cr.P.C. is not maintainable besides as has been already observed that the counsel for the petitioner could not convince this Court how there has been any patent illegality and perversity in the findings which could necessitate exercise of inherent jurisdiction of this Court. Finding no merit, the present petition stands dismissed.

September 09, 2019

(Fateh Deep Singh)
Judge

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