

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

**Crl. Misc. No. M-2277 of 2017
Date of Decision: July 15, 2019**

Vijay Singh

.....PETITIONER

VERSUS

State of Punjab and another

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Raman Goklaney, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, A.A.G, Punjab.

Ms. Seema Arora, Advocate
for respondent No.2.

SURINDER GUPTA, J.(Oral)

Heard.

FIR No.136 dated 20.06.2016 was registered on the complaint on Kewal Krishan son of Sita Rani, wherein, he has stated that Rupali Sethi, vide sale deed dated 25.08.2000 sold 0.53 marla site in Post Office, Street Ferozepur City to his mother Sita Rani and also handed over the possession. She with bad intention in connivance with Vijay Singh (petitioner) fabricated an ante-dated agreement regarding the same property in favour of petitioner and wanted to take possession of the shop forcibly.

Enquiry on the application was marked to Superintendent of Police, City Ferozepur, who found that Rupali Sethi had first entered into an

agreement to sell the shop with Vijay Singh and later on sold the shop in question to Sita Rani in order to defraud her and case was ordered to be registered against Rupali Sethi.

Bringing the facts relating to this transaction to my notice, learned counsel for the petitioner has argued that vide agreement dated 24.01.2000, Rupali Sethi, who was owner of the shop in question agreed to sell the same to petitioner and date for execution of the sale deed was fixed as 30.04.2000, which was later on extended to 31.07.2000. She did not execute the sale deed and the petitioner filed a civil suit seeking specific performance of the agreement and also challenging the sale deed dated 25.08.2000 executed by her in favour of Sita Rani regarding transferring the title of said shop in her favour. The suit filed by Vijay Singh was decreed by learned Civil Judge vide judgment and decree dated 19.12.2009. Sita Rani preferred appeal against that judgment, which was dismissed by the learned Additional District Judge, Ferozepur on 23.10.2012. Regular Second Appeal No. 914 of 2013 filed by her was dismissed by this Court on 16.08.2013. Thereafter, the petitioner filed application seeking execution of the decree. In order to halt the delivery of possession a civil suit was got filed from Ishant Kumar, who claimed himself to be a tenant in possession of the disputed shop. Application filed by him seeking ad-interim injunction was dismissed vide order dated 16.09.2014. Thereafter, possession of the suit property was delivered to the petitioner on 26.08.2015 and execution filed by him was withdrawn as per the order dated 17.10.2015 (Annexure P-7 colly). The JD moved application seeking restitution of the possession, which has also been dismissed and the suit filed by Ishant Kumar was also

not proceeded further. After availing all the remedies when the agreement in favour of the petitioner has been held to be legal and valid document and after his plea has been validated and upheld upto this Court allowing him the relief of specific performance of the agreement dated 24.10.2000, son of Sita Rani moved a complaint dated 13.06.2016 alleging that the possession of the shop is being forcibly taken from him despite the fact that the petitioner has already been put in possession on 26.08.2015. He has argued that in the preliminary enquiry, the police found a case of fraud against Rupali Sethi, the vendor of Sita Rani. During proceedings in the bail application filed by Rupali Sethi, the amount of sale consideration was also returned to the complainant and it was specifically mentioned in the order dated 09.11.2016 passed in CRM No. M-24732 of 2016 that Rupali Sethi has returned a sum of ₹1,50,000/- to the complainant.

In view of the above facts, no dispute regarding the property in question subsists but now the police intends to proceed against the petitioner without taking note of the verdict of Civil Court regarding the agreement in favour of the petitioner and discarding of the plea raised by mother of complainant that the agreement in favour of the petitioner was ante dated.

Learned State counsel assisted by learned counsel for respondent No.2 has argued that FIR was initially registered against Rupali Sethi but during investigation, she got recorded a disclosure statement to the effect that she has fabricated the agreement dated 24.01.2000 in connivance with Vijay Singh. Regarding the verdict in favour of Vijay Singh in the civil suit, he has argued that the same was not brought to the notice of the

Investigating Officer as Vijay Singh had not joined the investigation by that time.

From the facts as discussed above, it is evident that finding of the Civil Court that agreement to sell executed by Rupali Sethi in favour of petitioner is valid has attained finality. It is also not disputed that after the judgment in appeal filed by Sita Rani and dismissal of her RSA bearing No.914 of 2013 vide judgment dated 16.08.2013, possession of the shop in question was also delivered to the petitioner. In the civil suit, Sita Rani had an opportunity to produce evidence that the agreement in favour of petitioner was ante dated. It is also apparent that no appeal against the judgment passed in RSA No.914 of 2013 was filed by Sita Rani meaning thereby she has admitted the court verdict that the agreement in favour of petitioner was validly executed by Rupali Sethi. Complainant has also received ₹1,50,000/- in lieu of sale consideration of the sale deed executed in favour of Sita Rani, which was ₹1,10,000/-.

In view of the above facts, there remains no substance in the allegations levelled by the complainant that Rupali Sethi in connivance with petitioner had fabricated an ante-dated agreement in favour of the petitioner. The Civil Court has discussed that Rupali Sethi had admitted the execution of agreement in favour of petitioner. In view of her pleadings and evidence before the Civil Court, recording of her disclosure statement by the police, during investigation that she fabricated the agreement dated 24.01.2000 in connivance has no substance or material.

Keeping in view of the above facts, I am of the considered

by respondent No.2 after exhausting all the remedies before the Civil Court is a misuse of process of the Court and exercising powers of this Court under Section 482 Cr.P.C., this petition is accepted and proceedings in FIR No. 136 dated 20.06.2016 registered for the offences punishable under Section 420 IPC (Section 120-B IPC added later on) at Police State City Ferozepur are quashed.

July 15, 2019	(SURINDER GUPTA)
Jyoti-II	JUDGE
Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No