

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

CRM-M No.25046 of 2016 (O&M)

Date of decision: 03.04.2019

Chander Deep

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Sidakmeet S. Sandhu, AAG, Punjab.

Mr. Ranjit Mehta, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN J.

Prayer in this petition is for quashing of FIR No.128 dated 30.10.2015 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 (in short 'IPC') at Police Station City Fazilka, District Fazilka and subsequent proceedings arising therefrom.

Brief facts of the case are that the FIR was registered on the complaint of respondent No.2 – Rajinder Singh against the petitioner – Chander Deep and one Reshma Rani, with the allegations that the complainant has purchased a plot measuring 20 x 50 ft. vide sale deed dated 23.05.2001 from the accused persons and the accused persons have previously entered into an agreement to sell with one Bhola Singh and this fact was not disclosed by the accused persons to

him. After the execution of the sale deed, he came to know that the accused persons have played fraud with him as the aforesaid Bhola Singh has instituted a suit for specific performance of the earlier agreement to sell in his favour.

This petition is pending since 2016 and there is no stay of proceedings.

Counsel for the State, on instructions from the Inspector Prem Nath, SHO, PS City Fazilka has stated that at present the case is fixed for recording the evidence of the prosecution and out of 18 prosecution witnesses, 10 PWs have been examined and 02 PWs are given up and the prosecution evidence is likely to be concluded soon.

Counsel for the petitioner has submitted that when Bhola Singh has filed the suit for specific performance of the agreement dated 17.07.1998 allegedly executed by the petitioner and co-accused Reshma Rani in his favour, he has impleaded the complainant as a respondent, the complainant filed a written statement in which it is stated before purchasing the property that he had enquired about the ownership from the revenue record and Chander Deep was found to be owner of the same as he has purchased the same from the co-accused Reshma Rani on 10.10.2000 and the original sale deed in favour of Reshma Rani which was executed by one Ashok Kumar dated 26.02.1992 was also handed over to him. Counsel for the petitioner has, thus, argued that the complainant has made due verification about the property before entering into the agreement to sell in his favour.

In reply, counsel appearing for respondent No.2 has submitted that it is apparent case where the petitioner has not disclosed

the status of the land of the earlier agreement to sell dated 17.07.1998, in favour of Bhola Singh. Counsel for respondent No.2 has further submitted that since there was no sale deed on the date of agreement to sell in favour of the complainant, therefore, in the revenue record the ownership was in the name of the petitioner and the petitioner concealed about the earlier agreement to sell and without disclosing the same, he has committed the fraud with him. It is further submitted that in the civil suit, the sale deed executed in favour of the complainant was set-aside upholding the right of Bhola Singh to get a decree of specific performance in his favour on the basis of the earlier agreement to sell in his favour.

After hearing the counsel for the parties, considering the fact that there are disputed questions of fact and the case is now at the fag end as the prosecution has already examined 10 prosecution witnesses out of 18 PWs and 02 PWs have been given up and as stated above, the prosecution evidence is likely to be concluded soon, I do not find that the case of the petitioner is covered by the ratio of law laid down in “*State of Haryana vs Ch. Bhajan Lal and others*”, 1991(1) RCR (Criminal) 383. Even otherwise, the petitioner could not dispute that prior to selling the land in favour of the complainant, he had entered into an agreement to sell in favour of one Bhola Singh and it is a disputed fact whether it was in the knowledge of the complainant or not, which can only be decided by the trial Court.

Needless to say that the suit filed by Bhola Singh praying for a decree for specific performance and for setting-aside the sale deed executed by the petitioner in favour of the complainant, stands decreed

and even the first appeal was dismissed upholding the said decree, therefore, finding no ground, the petition fails and is accordingly *dismissed*.

(ARVIND SINGH SANGWAN)
JUDGE

03.04.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No