

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

**Crl. Misc. No. M-37241 of 2017
Date of Decision: July 11, 2019**

Sarpreet Singh

.....PETITIONER

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Nand Lal Simmi, Advocate
for the petitioner.

Mr. Arpinder Singh Sidhu, D.A.G., Punjab.

SURINDER GUPTA, J.(Oral)

Heard.

FIR No. 206 dated 20.07.2017 was registered on the complaint by Navjot Singh, who had entered into an agreement to purchase a house measuring about 14 biswas bounded as follows:

East	Field of Gurbaksh Singh
West	Passage
North	Harnek Singh
South	House of Gurmail Singh

This house is situated in the area of village Balala Tehsil Samrala.

As per the allegations in the FIR, the vendee i.e. Jaspal Kaur Badesha did not turn up to get the sale deed executed on the stipulated day despite the fact that complainant appeared and had intimated about the

availability of balance of sale consideration with him. The area of property sold to be agreed was found to be 9 biswas instead of 14 biswas as mentioned in the agreement. It was found that this property was not owned by Jaspal Kaur rather Damanpreet Singh son of Jaswant Singh was its owner. In this manner Jaspal Kaur and her son Sarpreet Singh (petitioner) had committed fraud with the complainant.

Learned counsel for the petitioner submits that the petitioner has signed the agreement between complainant and his mother as witness. He had not made any mis-representation to the complainant and no offence punishable under Section 420 IPC is disclosed against him.

Learned counsel for the complainant has argued that status of petitioner is not that of a mere witness. Being son, he was aware of the matter and was party to the fraud played by Jaspal Kaur, who agreed to sell 14 biswas house which in fact was 9 biswas at the spot. She was not even owner of the house at the time of agreement and even uptill the date stipulated for execution of sale deed. She got title over suit property on execution of sale deed in her favour on 19.01.2017 by sons of Jaswant Singh. The offence under Section 420 IPC is prima facie disclosed against the petitioner and police has rightly presented the challan against him.

As per the recital in the agreement between complainant and Jaspal Kaur Badesha (since deceased), she agreed to sell a constructed house with specific boundaries. When the boundaries of the property have been mentioned in the agreement, the description of area is not of much relevance. In the agreement, this fact is specifically mentioned that this house was owned by Gurbax Singh husband of Jaspal Kaur under an

agreement dated 03.01.1985 with Jaswant Singh son of Modan Singh resident of Balala, Tehsil Samrala, as such, there is no misrepresentation to the complainant on this aspect as well.

The challan has been presented against the petitioner for the offence punishable under Section 420 IPC.

Cheating has been defined under Section 415 IPC as follows:-

415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

There is no allegations in the complaint that the petitioner had induced the complainant to enter into an agreement or made any misrepresentation to him.

The dispute is of civil nature and the complainant had tried to give it criminal colour while getting FIR registered. The petitioner had signed the agreement only as a witness. It is a usual practise that son or daughter of vendor are made to sign the agreement to sell as a consenting witness, so that he may not back out or challenge the deal at later stage. It is not a case where the petitioner had entered into any agreement with Navjot Singh. The same remained executable against Jaspal Kaur. For the breach of contract, the complainant can proceed in accordance with law against the

vendors or his legal heirs as he deemed fit. The filing of challan against the petitioner is a sheer misuse process of the court, calling for quashing of this FIR, exercising the power as conferred under Section 482 Cr.P.C. This petition is accepted and the FIR No.206 dated 20.07.2017 registered at the Police Station Samrala, District Khanna along with all the subsequent proceedings against the petitioner is quashed.

July 11, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

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