

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-40416-2017

Date of decision: 27.03.2019

Jaswinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Amit Arora, Advocate for the petitioner.

Mr. AS Gill, DAG, Punjab.

Mr. HS Batth, Advocate for respondents No. 2 to 5.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing order dated 25.04.2016 (Annexure P-11) of the Sub Divisional Judicial Magistrate, Khadoor Sahib, District Tarn Taran, whereby application filed by petitioner-complainant under Section 216 Cr.P.C., for amendment of charge was dismissed. Further prayer has also been made for quashing order dated 11.08.2017 (Annexure P-12) vide which revision filed by the petitioner against the order Annexure P-11 was dismissed by the Revisional Court.

Briefly, respondent No. 2-Gurdial Singh, in connivance with his co-accused, got transferred 6 acres of land of his real brother Jaswant Singh, vide two transfer/sale deeds dated 03.01.2005 and 28.02.2005. Father of the petitioner is the real brother of respondent No. 2 and

Jaswant Singh, aforesaid. Being aggrieved of the aforesaid action of respondent No. 2, he filed a complaint against his uncle Gurdial Singh and four others i.e. Lambardar of the village, Tehsildar, who had registered the aforesaid transfer/sale deeds, Sarpanch of the village and one Ajit Singh, who had attested the aforesaid transfer/sale deeds.

After recording preliminary evidence, the trial Court only summoned respondent No. 2-Gurdial Singh and dismissed the complaint against private respondents No. 3 to 5 and Hansa Singh, Tehsildar, vide order dated 31.10.2006 (Annexure P-2).

Being aggrieved, the petitioner approached the revisional Court who accepted his revision vide order dated 16.04.2010 (Annexure P-3) thereby directing the trial Court to summon the private respondents No. 3 to 5 and Hansa Singh, Tehsildar, under Sections 420 and 120-B IPC.

Being dissatisfied, respondents No. 3 to 5 approached this Court, by way of CRR-1857-2010, which was dismissed by this Court vide order dated 14.07.2010 (Annexure P-4). Consequently, respondents No. 3 to 5 had to face trial with respondent No. 2, under Sections 420 and 120-B IPC.

Hansa Singh, Tehsildar, vide separate revision bearing CRR-1787-2010, challenged his summoning by the trial Court before this Court, which was accepted vide order dated 16.01.2015 (Annexure P-5), remanding the case to the revisional Court to decide the matter afresh.

In the meantime, the petitioner withdrew his complaint against aforesaid Hansa Singh, Tehsildar, by making statement before the

learned Additional Sessions Judge, Tarn Taran on 10.07.2015.

Thereafter, the trial Court charge-sheeted private respondents No. 2 to 5 under Section 420 IPC, vide order dated 14.01.2016 (Annexure P-8) against which the petitioner filed a revision for summoning private respondents No. 2 to 5 additionally under Sections 467, 468, 471 and 120-B IPC. The same was dismissed by the learned Additional Sessions Judge, Tarn Taran vide order dated 17.02.2016.

The petitioner thereafter, as a clever move, moved application (Annexure P-9) under Section 216 Cr.P.C., for addition of charge under Sections 467, 468, 471 and 120-B IPC, which was dismissed by the trial Court, vide impugned order 25.04.2016 (Annexure P-11), on the ground that since revisions raising the same plea of the petitioner have already been dismissed, therefore, the private respondents could not have been charge-sheeted additionally under Sections 467, 468, 471 and 120-B IPC.

Revision filed by the petitioner against the said order Annexure P-11, was also dismissed by the Revisional Court, vide order dated 11.08.2017 (Annexure P-12).

At the outset, learned counsel for respondents No. 2 to 5 contends that the petitioner by concealing the factum of order dated 17.02.2016 qua dismissal of his revision for charge-sheeting private respondents additionally under Sections 467, 468, 471 and 120-B IPC, has filed the instant petition. Therefore, the same should be outrightly dismissed.

Learned counsel for the petitioner has not been able to refute the above submission of learned counsel for respondents No. 2 to 5, inasmuch as, the fact of dismissal of revision of the petitioner by the Revisional Court, for charge-sheeting the private respondents additionally under Sections 467, 468, 471 and 120-B IPC, has been concealed by the the petitioner. The same has been mentioned in the impugned order Annexure P-11 of the trial Court. Therefore, the application of the petitioner under Section 216 Cr.P.C., has rightly been dismissed by the trial Court vide order Annexure P-11 which was affirmed by the Revisional Court, vide order Annexure P-12.

Resultantly, the instant petition having no merits is dismissed.

March 27, 2019
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(RAMENDRA JAIN)
JUDGE

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