

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44204-2017(O&M)

Date of decision: 28.11.2019

Hanu Kumar Sharma and others

.....Petitioners

Versus

Sudarshan Kumar Sharma

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Gaurav Aggarwal, Advocate for the petitioner
Mr.A.P.Batra, Advocate for respondent

ANIL KSHETARPAL, J. (ORAL)

Accused-petitioners have filed this petition under Section 482 Cr.P.C assailing correctness of order dated 6.10.2017 passed by Additional Sessions Judge, Gurugram accepting the revision petition while setting aside the order passed by Chief Judicial Magistrate, Gurugram while remitting the matter back for re-consideration.

Complainant-respondent claims that he on being inducted as a member of Sheeba Cooperative Group Housing Society Ltd. deposited a sum of Rs.95,000/-. However, when the land was allotted to the Cooperative Society by the HUDA, his name was deleted. It is apparent from the reading of paras 9 and 13 of the impugned order. Learned Additional Sessions Judge has assumed that complainant has in fact deposited Rs.95,000/-. Learned counsel for the petitioners on the one hand has submitted that no payment was deposited and the complainant had in fact resigned, whereas counsel for the respondent contradicts. However,

when this Court called upon the counsel for the respondent to produce a

copy of the receipt proving deposit of the amount in Cooperative Society but he has failed to produce the same.

On the other hand, learned counsel for the petitioners has drawn attention of the Court to the orders passed by the Assistant Registrar, Deputy Registrar and Additional Registrar, Cooperative Societies dealing with the complaint of the respondent-complainant wherein it has been noticed that the complainant had in fact resigned.

Keeping in view the aforesaid facts, the order passed by Additional Sessions Judge, Gurugram is set aside. The matter is remitted back to the learned Additional Sessions Judge, Gurugram to pass a fresh order after considering the record examined by the Chief Judicial Magistrate. Needless to observe that learned Additional Sessions Judge would pass a fresh order independently, without being influenced by previous order passed by it. Parties through their counsel are directed to appear before the learned Court of Additional Sessions Judge, Gurugram on 10.12.2019.

Disposed of.

28.11. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No