

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1294 of 2019 (O&M)

Date of decision: 27.05.2019

Rajwati and others

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.K. Yadav, Advocate
for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

This revision petition has been filed by Rajwati, Pehlad and Kali Charan against the judgment of learned Additional Sessions Judge, Palwal confirming the judgment of conviction passed by the Judicial Magistrate Ist Class, Palwal dated 29.03.2017 and order of sentence dated 30.03.2017 in FIR No.80 dated 26.02.2008 under Sections 120-B, 467, 468 and 471 of the Indian Penal Code.

This Court has heard learned counsel for the petitioners at length and with his able assistance gone through the judgments passed by the Courts below.

Learned counsel appearing for the petitioners has submitted that Kali Charan, one of the petitioner is only the attesting witness and therefore, he is not beneficiary. He further submitted that Pehlad is neither signatory nor beneficiary under the alleged sale deed and therefore, the judgments passed against him are perverse. He further submitted that

Rajwati is a bona fide purchaser for payment of due consideration and hence, the petitioner-Rajwati could not be convicted. He further submitted that both the Courts have acquitted the petitioners from charge under Sections 419, 420, IPC, hence, petitioners have been wrongly convicted under Sections 120-B, 467, 468 and 471, IPC.

Some facts are required to be noticed.

Jai Dev Chaudhary and Sunder Lal were owners of the immovable property. Jai Dev Chaudhary died on 20.09.1970 whereas Sunder Lal died on 19.11.1980. However by impersonation, Rajwati allegedly purchased the property owned by Jai Dev Chaudarhy and Sunder Lal through a sale deed dated 03.10.2005 by making some other persons to impersonate as Jai Dev Chaudhary and Sunder Lal, who had died much before the date when alleged sale deed was executed. Learned First Appellate Court has already adversely commented upon the faulty investigation carried out by the investigating agency. In fact, the investigating agency did not find out or implicate the persons who had impersonated as owners (i.e. late Sh. Jai Dev Chaudhary and late Sh. Sunder Lal) in 2005. It will be noted here that on the sale deed dated 03.10.2005, wrong and incorrect photographs of late Sh. Jai Dev Chaudhary and Sunder Lal are affixed.

Now let us deal with the arguments of learned counsel for the petitioners.

The petitioner-Kali Charan is attesting witness of the sale deed. He is said to have identified Jai Dev Chaudhary and late Sh. Sunder Lal in 2005, although, they have died in 1970 and 1980. Thus, Kali Charan cannot claim that he being only attesting witness is not involved or

innocent. The purpose of attesting witness is to ensure that the attesting witness is able to identify the vendor and the vendee. Obviously, Kali Charan identified impersonators as Jai Dev Chaudhary and Sunder Lal, therefore, Kali Charan cannot claim that he is not involved.

As regards argument of learned counsel with regard to Pehlad, it will be noted that Pehlad is husband of Rajwati, the alleged purchaser. It has come in evidence that it was Pehlad who had planned everything and was brain behind the alleged sale deed. Hence, Pehlad is very much involved in the case.

Next argument of learned counsel with regard to Rajwati is also to be noted and rejected because Rajwati is the beneficiary under the alleged sale deed which is result of impersonation. Rajwati who was resident of the same village is required to have knowledge whether owners of the land in the village are alive or not. Still further, her husband is the main conspirator in this episode. Therefore, the Courts have rightly concluded that Rajwati cannot claim herself to be a bona fide purchaser.

It is undisputed that in the civil suit filed by legal heirs of owners, the sale deed dated 03.10.2005 has already been set aside. First and second appeal have also been dismissed.

Let us now deal with last argument of learned counsel with regard to acquittal of the petitioners under Sections 419 and 420 of the Indian Penal Code. It will be noted that the offences under Sections 419 and 420 are based upon offence of cheating as defined in Section 415 of the Indian Penal Code. Section 419 could be invoked only against the alleged vendors who had impersonated as Jai Dev Chaudhary and Sunder Lal. Since none of the petitioners is impersonator, therefore, the Court has

rightly held that offence under Sections 419 and 420, IPC are not made out against the petitioners.

In view of the aforesaid discussion, this Court does not find any good ground to interfere.

The pending miscellaneous application, if any, shall stand disposed of in view of the above-said judgment.

Hence, the criminal revision petition is dismissed.

27.05.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

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