

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1360 of 2016 (O&M)

.....

Date of decision:04.04.2019

Kishna and others

...Petitioners

v.

Mehnga Ram

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. A.S. Khinda, Advocate for the petitioners.

Mr. Divjyot S. Sandhu, Advocate for the respondent.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 397 read with Section 401 Cr.P.C against the impugned order dated 21.01.2016 passed by learned Additional Sessions Judge, Kapurthala, vide which the revision petition filed by Mehnga Ram against Kishna and others challenging the order dated 1.4.2014 dismissing the complaint passed by the learned Judicial Magistrate Ist Class, Kapurthala, has been accepted and the order passed by the learned JMJC was set aside and the petitioners have been summoned to face trial under Sections 420, 465, 467, 468, 471 and 120-B IPC.

Notice of motion was issued in this case.

Mr. Divjyot S. Sandhu, learned Advocate has put in appearance

on behalf of the respondent and contested this criminal revision petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Mehnga Ram-complainant filed a complaint against Kishna and others under Sections 420, 465, 467, 468, 471 and 120-B IPC.

A perusal of the records shows that the learned Judicial Magistrate Ist Class, Kapurthala, vide order dated 1.4.2014 finding no ground to summon the accused dismissed the complaint and the accused were not summoned. A revision petition was filed by the complainant and the learned Additional Sessions Judge, Kapurthala vide order dated 21.1.2016 set aside the order passed by the learned Judicial Magistrate Ist Class, Kapurthala, and accepted the revision petition. Aggrieved from this order, the present petitioners have filed the criminal revision petition.

After hearing learned counsel for the parties and after going through the record, I find that the complainant filed the complaint that he along with his brother Barkat filed a civil suit for joint possession to the extent 2/3 share in the land measuring 47 Kanals 2 Marlas situated in Village Ibrahimwal, Kapurthala, which was contested by accused No.1 i.e. Kishna and the same was pending before the learned Civil Judge (Junior Division), Kapurthala and the defendants were restrained from alienating the suit land to any person, in any manner, till the disposal of the suit. Vide order dated 22.3.1997, an order was given to the Halqa Patwari, and stated that the entry of the order be mentioned in the revenue record, but accused

No.1 in connivance with the other accused defrauded the complainant and

got two registered sale deeds dated 15.1.1999 in connivance with marginal witnesses and deed writer and Halqa Patwari in favour of accused No.2 Hardip Singh. It has been stated that all accused fraudulently, dishonestly and with common intention got registered two sale deeds dated 15.1.1999 and prepared the forged sale deeds by concealing the order dated 22.3.1999. It has also been stated in the complaint that the complainant filed an appeal before the learned District Judge, Kapurthala, which granted the stay for alienation of the land on 25.7.2009. All the accused with fraudulent and dishonest intention got registered two sale deeds dated 28.7.2009 for the land measuring 5 Kanals 18 Marlas and 4.8.2009 for the land measuring 5 Kanals 18 Marlas from the accused No.1 and 6 concealing the order passed by the learned Additional District Judge, Kapurthala.

A perusal of the complaint itself shows that as per the complainant the commission of offences is that the accused in connivance with other had violated the order of the court in Civil Suit as well as in appeal. These are the only material allegations against the accused.

At the time of arguments, it has been stated that the suit has already been dismissed and the proceedings were initiated by the complainant under Order 39 Rule 2-A CPC and the accused have already been punished under Order 39 Rule 2-A CPC by the Civil Court.

A perusal of the order passed by the learned Judicial Magistrate Ist Class, Kapurthala, shows that the order was passed by the learned trial Court correctly as per the law while appreciating the evidence in right perspective. The only allegation is regarding the violation of the injunction order passed by the civil Court and remedy has been provided in

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the CPC for violation of the injunction order and the proceedings were initiated and action has been taken under the punitive provisions of C.P.C. Now filing of the complaint on the same ground cannot be allowed. The learned trial Court has rightly reached at the conclusion that there is no ground for summoning the accused and the order passed by the learned Additional Sessions Judge is not as per law and the same is liable to be set aside.

Finding merit in the present criminal revision petition, the same is allowed and the impugned order dated 21.2.2016 passed by the learned Additional Sessions Judge, Kapurthala is set aside.

April 04, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No