

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

CRR No.2667 of 2015

Date of decision: 7th February, 2019

Deepti Saini

... Petitioner

Versus

Punit Goyal & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Varun Gupta, Advocate for the petitioner.

FATEH DEEP SINGH, J.

The brief facts that need to be recapitulated before venturing into the relative merits of the case of the petitioner are as follows:-

On the complaint of the present petitioner Deepti Saini, a criminal case by way of FIR No.287 dated 17.06.2011 under Sections 406, 420, 467, 471, 506 and 120B IPC was got registered at Police Station Sector 7, Faridabad and upon completion of investigations when the police filed cancellation report, the complainant filed a protest petition and after recording of preliminary evidence, vide impugned order dated 03.11.2014 the Court of learned Judicial Magistrate 1st Class, Faridabad dismissed the same. The present petitioner complainant, aggrieved over these findings, has come up before this Court in this revision.

Allegations in brief of the complainant are that the accused Punit Goyal, Anil Goyal and Amit Goyal, who are running M/s Piyush Colonizers Limited, Faridabad, developed a residential colony at Bhiwadi (Rajasthan). The complainant swayed by the advertisement applied for booking a flat in the said colony and as a consequence of which, claims that on 06.08.2017 she deposited a sum of Rs.2,50,000/- as earnest money and thereafter Rs.2,50,000/- vide letter dated 07.08.2007 and 19.10.2007, but they failed to deliver possession of the flat and thus, the complainant claiming that the accused have committed a fraud, had instituted the case in question. In support of his case, learned counsel for the petitioner has placed reliance on '**Asit Bhattacharjee vs. M/s Hanuman Prasad Ojha & others**' 2007(3) RCR(Criminal) 177.

The first and the foremost question that arises before this Court during the course of hearing is that by virtue of Sections 397 and 399, a Court of Sessions has powers to exercise revisional jurisdiction, for which this Court seeks support from '**Rajendra Rajoriya vs. Jagat Narain Thapak & another**' 2018 AIR (SC) 1229. In the present case, the impugned orders have been passed by the Court of learned Judicial Magistrate 1st Class, Faridabad and the petitioner, contrary to the principle of hierarchy of courts, rather than assailing the order, if so necessitated, before the learned Sessions Judge, had directly come up before this Court and which to the mind of this Court, needs to be discouraged. Furthermore, by virtue of Section 177 Cr.P.C. lays down

that every offence ordinarily shall be enquired into and tried by the Court within whose local jurisdiction an offence is committed.

Reverting back to the instant case, it is the own case of the petitioner that the flats were to be allotted at Bhiwadi (Rajasthan) and that as has come up in the police report dated 17.06.2011, which forms the cancellation report, the office of the company is at Delhi. The complainant is a resident of Gurugram and has filed the complaint at Faridabad and it is nowhere the case of the petitioner that the fraudulent representation so alleged to have been made by the accused, was at Faridabad, and therefore, to the mind of this Court, does not give rise to any cause of action to the petitioner at Faridabad. The ratio cited by the petitioner side does not come to the aid of the petitioner on account of factual and legal disparity. Learned counsel for the petitioner could not convince this Court how there has been any illegality or perversity in the impugned findings recorded by the Court below. The revision petition being hopelessly without any merit, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 7, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No