

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4459-2015 (O&M)

Date of decision: 11.02.2019

Lakhwinder Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

**PRESENT:** Ms. GK Mann, Advocate for the petitioners.

Mr. AS Gill, DAG, Punjab.

Mr. Vipin Mahajan, Advocate for respondent No. 2.

**RAMENDRA JAIN, J. (ORAL)**

Through this revision, challenge has been laid to the order dated 21.08.2015 of the Revisional Court, whereby the case was remanded to the trial Court, for framing of charge against the petitioners.

Briefly, Jagir Singh and Pala Singh, brothers of complainant-respondent No. 2-Kehar Singh, executed a registered general attorney dated 23.10.1987 in favour of one Jiwan Singh, who on the basis of same, executed sale deed dated 18.07.1988, in favour of the petitioners wrongly reciting therein that executants of the sale deed were alive, though, Jagir Singh one of the executant had already expired on 12.12.1987.

On the basis of these broad allegations, complainant-respondent No. 2 filed a complaint against the petitioners under Sections 418, 419, 467, 468 and 120-B IPC. The trial Court, after recording pre-charge evidence, discharged the petitioners vide order dated 20.02.2013.

Being aggrieved, complainant-respondent No. 2, approached the revisional Court, challenging the said order, who, after hearing both the sides, remanded the case to the trial Court to frame charge against the petitioners under the relevant sections of IPC, vide order dated 21.08.2015, impugned herein.

Learned counsel for the petitioners *inter alia* contends that in civil litigation between the parties, the petitioners have succeeded. The same has also attained finality. The petitioners were *bona fide* purchasers of the land through genuine general attorney of the vendor. The fraud or cheating, if any, was committed by Jiwan Singh, being executant of the sale deed in favour of petitioners, who had already expired prior to filing of the complaint.

On the other hand, learned counsel for respondent No. 2-complainant refuting the above submissions of learned counsel for the petitioners, contends that Civil Courts have rendered judgments in favour of the petitioners, declaring them owners on the basis of adverse possession being *bona fide* purchasers. Therefore, the petitioners cannot be permitted to take advantage of civil Court decrees in their favour.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision merits acceptance for the reasons to follow:

The registered general attorney dated 23.10.1987, executed in favour of Jiwan Singh by Jagir Singh and his brother Pala Singh, was genuine. Though, Jagir Singh one of the executant of said general attorney, had expired on 12.12.1987, after its execution, but before execution of sale dated 18.07.1988, but that fact, in itself, is not sufficient to draw inference

against the petitioners that they were aware of the death of Jagir Singh before purchasing the land, unless it could be proved that Jiwan Singh or any other person had specially informed the petitioners about the death of Jagir Singh.

More so, in complaint (Annexure P-1), complainant-respondent No. 2, has nowhere pleaded that the petitioners were aware or it was brought to their notice about the death of Jagir Singh. Therefore, it can safely be said that petitioners were kept in dark by Jiwan Singh, holder of the attorney. He, by concealing the factum of death of Jagir Singh, may be with dishonest intention must have recited in the sale deed that all the executant of general attorney in his favour were alive for which the petitioners cannot be made liable, in the absence of any direct evidence from the complainant's side in this respect.

The alleged cheating and fraud, if any, was committed by Jiwan Singh, who died much prior to the filing of complaint (Annexure P-1). The petitioners have already been declared rightful owners of the land in question, sold to them by registered general attorney.

In view of the discussion made above, the instant revision is allowed and impugned order dated 21.08.2015 of the Revisional Court, is set aside.

**February 11, 2019**  
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**( RAMENDRA JAIN )**  
**JUDGE**

**Whether speaking/reasoned**                      **Yes/No**

**Whether reportable**                              **Yes/No**