

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl. Misc. No.M-30996 of 2019 (O&M)
Date of Decision: July 22, 2019

Rajwanti

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

SURINDER GUPTA, J.(Oral)

The petitioner filed an application before learned Judicial Magistrate Ist Class, Rohtak under Section 156(3) Cr.P.C. on which learned Magistrate found no reason to send the complaint to police for investigation and registration of the FIR. On declining the request, the application was registered as complaint and petitioner was required to produce preliminary evidence on 06.06.2019.

Not satisfied, the petitioner filed revision which was dismissed on 01.06.2019 by the learned Additional Sessions Judge, Rohtak with the observations as follows:

Having heard the submissions made by the learned counsel for the parties and having perused the records of the case, it is observed that it was the discretion of the learned Trial Court whether or not to send the matter for registration of the FIR. In the instant case, the entire record is in possession of the

parties and they are clear about their respective stands. No enquiry is to be made from any authority which the learned Trial Court cannot obtain on its own. Therefore, the opinion of the learned Trial Court that registration of the FIR was not required is fully justified. There is no illegality or infirmity in the impugned order and the same does not call for any interference.

As per allegations in the complaint (Annexure P-13) Seema Bansal-respondent No. 2 sold a plot vide sale deed dated 03.05.2013 situated in Janta Colony, Rohtak through respondent No. 3 being her GPA to petitioner. The petitioner came to know that respondent No. 2 had executed a transfer deed of plot in question in favour of respondent No. 3 on 30.11.2017. In this manner, respondents No. 2 and 3 have played fraud with her. She has sought initiation proceedings against them for offence punishable under Sections 420, 467, 468, 471, 120-B of Indian Penal Code (for short IPC). The question which arise for consideration is as to whether the offences under Sections 420, 467, 468 and 471 are prima facie disclosed. Learned trial Court has avoided to go into this aspect while passing order dated 13.05.2019 and provided opportunity to the complainant to produce evidence in support of her contention. On perusal of the complaint, it was of the opinion that no ground was made out to send the complaint to police for investigation and registration of the FIR.

Learned counsel for the petitioner relying on the observations in the case of **Anil Kumar and others Versus M.K.Aiyappa and another, 2013(10) SCC 705**, has argued that learned trial Court has given no reason while declining the request of petitioner to send the compliant to police for registration of the FIR.

I have perused the judgment in aforementioned case. In that case, learned Magistrate had referred a private complaint for investigation by the Deputy Superintendent of Police without production of a valid sanction order as required under Section 19 of the Prevention of Corruption Act, 1988. The Hon'ble Apex Court observed that before passing order under Section 156(3) Cr.P.C. learned Magistrate should look into the complaint and documents. In this case, the documents which are the basis of the complaint are part of the public record and can be easily produced in the Court. The petitioner by producing all the documents and entire record could make out that any case indicating commission of offence punishable under Sections 420, 467, 468, 471 IPC is prima facie made out to summon the private respondents to face trial.

Keeping in view, all the facts and circumstances, I find no merits in this case calling for any interference in the orders of the Courts below.

Dismissed.

July 22, 2019

Jyoti-II

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No