

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.8634 of 2016

Date of Decision: 06.12.2019

Charan Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Y.P.Singla, Advocate,
for the petitioner.

Ms. Simran Grewal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1. Pursuant to the order dated 18.11.2019, costs have been paid.

2. Stamp duty stands waived off by order dated 27.11.2019.

The photocopy of the order passed by Collector-cum-Additional Deputy Commissioner, District Fatehgarh Sahib, to this effect has been produced by the petitioner and the same is taken on record as identification Mark "A".

3. The petitioner's grievance has been redressed. Accordingly, the impugned orders dated 09.07.2013 (Annex P-3) and 27.08.2014 (Annex P-4) are set aside as the same stand substituted by the order dated 27.11.2019, which has been passed in pursuance of the interim directions issued by this Court by detailed order dated 19.08.2019.

4. Though learned counsel for the petitioner is satisfied with the relief granted by the fresh order but he is dissatisfied to the extent

that no action has been taken against complainant Balvir Singh @ Balbir Singh S/o Sucha Singh, R/o Ward No.9, Khamanon, Tehsil Khamanon, District Fatehgarh Sahib for filing the false complaint dated 22.07.2011.

5. To appreciate this submission and for passing the proposed orders that I would like to make, my order dated 19.08.2019 requires reproduction for the benefit of those authorities who may have to implement the directions that this Court ultimately issues in this order.

The order reads as under :-

“1.The petitioner has been subjected to proceedings under Section 47-A of the Indian Stamp Act, 1899 for undervaluation of property on a complaint made by one Balbir Singh to the Deputy Commissioner, Fatehgarh Sahib alleging short payment of stamp duty to revenue. The agreement to sell was entered on 11.04.2011 and the sale deed was executed @ Rs. 55,000/- per marla on 19.07.2011. The size of the residential house was 6 ½ marlas and a sum of Rs. 1,50,000/- was paid in cash and Rs.8,50,000/- by way of draft on a loan from State Bank of India, Khamanon. In the proceedings, the petitioner relied on a sample sale deed executed between 3rd parties for the property admeasuring 03 marlas @ Rs.55,000/- per marla being the collector rate. Therefore, there was no evasion of stamp duty.

2. Nevertheless, Balbir Singh who was the prime mover of the proceedings against the petitioner under the India Stamp Act has been proved to have relied on a forged agreement to sell showing the wife of the present petitioner i.e. Baljit Kaur as vendee with the total sale consideration of the property @ Rs.30,00,000/-. The witness to the agreement, namely, Jasvir Singh denied his signatures on the document. In that case, witness

Jasvir Singh had filed a complaint to the Police regarding the sale agreement which was registered as FIR No. 119 dated 26.07.2014 under Section 420 IPC at Police Station Khamanon, Fatehgarh Sahib claiming that the agreement to sell was forged. The trial in the FIR has resulted in conviction of Balbir Singh for a term of three years with the following findings on conviction recorded in paragraphs No. 24 and 25 of the judgment:

“24. During the cross-examination of prosecution witnesses, Balbir Singh has remained silent. If he was ever the witness to the agreement to sell dated 28.03.2011 and how his signatures on the said agreement to sell appeared on photocopy of the same in the proceedings before the ADC, Fatehgarh Sahib. If he was innocent, then he would have been the one to file a complaint, regarding misuse of his signatures. On the contrary, relying upon the forged photocopy of the agreement to sell, showing himself to be one of the witness of the same, he has tried to cause wrongful loss to the complainant and other prosecution witnesses. Balbir Singh was also aware of the fact that the original agreement to sell was not signed by its purchaser Baljit Kaur. In other words, he was aware that the agreement to sell dated 28.03.2011, was not a validly executed contract. Still, he filed a case with the office of ADC, Fatehgarh Sahib, referring to the affixation of the deficit stamp duty.

25. Thus, from the above discussion, it is proved that it was Balvir Singh, who was in possession of the photocopy of the agreement to sell dated 28.03.2011 while the original remained

in possession of the vendors. When, the said clearly photocopy remained in the possession of accused Balbir Singh, it was forged and tampered with by him to file case with the office of the ADC, Fatehgarh Sahib. Thus, the accused Balbir Singh is found guilty for the offence punishable under Section 420 of IPC, beyond the shadow of reasonable doubt. Let the convict be taken into custody and he heard on the question of sentence. Judgment has been read out and explained to accused in his language as per provision of Section 353 of Cr.P.C. Let he be taken into custody and be heard on the quantum of sentence.”

3. As per the trial Court judgment, the evidence on record would conclude that the agreement to sell which formed the basis of the complaint against the petitioner for undervaluation of property and payment of deficit stamp duty is a forged document and therefore, no reliance can be placed on that sale agreement for initiating proceedings against the petitioner under the Section 48 of the Indian Stamp Act, 1899. The judgment of the Sub Divisional Judicial Magistrate, Khamanon is dated 24.07.2019.

4. This recent event appears to knock the foundation of the case of the department. However, this aspect has not been hitherto considered, for obvious reasons, by the authority and therefore, it is deemed appropriate that a direction should fly to the Collector-cumAdditional Deputy Commissioner, Fatehgarh Sahib to re-visit the impugned order dated 09.07.2013 in view of the subsequent events which have a material bearing on the case.

5. A copy of the trial Court order is retained on record and one copy of the same has been handed over to Rajbir

Singh, Registering Clerk, Tehsil Khamanon, District Fatehgarh Sahib who is present in Court today to give assistance to the learned law officer, for placing it before the Collector for his consideration in making a fresh speaking order on merits keeping in view the changes brought about by conviction and sentence of the prime mover of the complaint.

6. The petitioner be also heard before making any conclusive order and the same when taken be placed on the record of this case on or before the next date of hearing for perusal of the Court and further consideration in case it is still adverse to the interest of the petitioner.

7. List on 18.11.2019.”

6. It is an accomplished fact that Balvir Singh, who filed a false complaint against the petitioner, has been convicted by the trial Court for an offence punishable under Section 420 of IPC. The trial Court has not granted compensation under Section 357-A Cr.P.C. to the petitioner-victim for the false complaint which led to his protracted criminal trial making him suffer humiliation, social stigma, defamation and incarceration in jail apart from the expenses he and his family must have incurred in the litigation till this Court. Balvir Singh is prima facie guilty of malicious prosecution of the petitioner and for filing a false criminal case against him in which he has been proved innocent.

7. Accordingly, the Senior Superintendent of Police, Fatehgarh Sahib is directed to look into the case and take all the necessary steps against Balvir Singh including initiating action under Section 182 of the Cr PC for furnishing false information to public servant in a complaint of FIR. The petitioner is at liberty to file an action

on account of malicious prosecution and in addition seeking his civil remedy for compensation and also before the Collector under the Indian Stamp Act, 1899 for coercive action against Balvir Singh.

8. With the aforesaid observations and directions, the writ petition is disposed of.

06.12.2019
hemlata/MFK

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>