

CRM-37871-2019 in/and
CRM-M-40989 of 2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-37871-2019 in/and
CRM-M-40989 of 2019 (O&M)
Date of Decision: 03.12.2019

Kamal Parkash Goyal and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sunil Chadha, Senior Advocate, with
Mr. Lakshay Bector, Advocate,
for the petitioners.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. Nitin Thatai, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to the order dated 1.11.2019, Mr.S.P.S. Dhindsa, DCP (Detective), Ludhiana, is present in Court and has first stated that the investigating agency is trying to obtain the original agreement of sale from the person through whom it is stated to have been executed by one Tarun Jain (who has been referred to in the order of this Court dated 1.11.2019 as the person who had instituted a civil suit in Ludhiana against the petitioners, seeking a decree of specific performance).

He therefore states that presently at least, the custodial interrogation of the petitioners is not required, but if it would be required at any stage for any reason, due notice would be given to them, after which they would be, naturally,

expected to join investigation.

It has also been noticed that pursuant to the said order of this Court, the case file of Civil Suit no.3123 of 2018 as had been instituted before the learned Civil Judge (Junior Division), Ludhiana, has also been received, from which it is seen that in the said suit, the petitioners herein were arrayed as defendants no.1 and 3, but with them, as also the wife of the first petitioner i.e. defendant no.2, having all been proceeded against *ex parte* before that Court, with, eventually, that suit having been withdrawn by the aforesaid Tarun Jain on a statement made by him before the learned Lok Adalat on 14.9.2019.

At least an initial perusal of that case file shows that a photocopy of an agreement of sale, (shown to be verified to be a true photocopy by the Notary Public, Ludhiana, on 29.5.2018), was on record of that case, though no exhibit number is seen to be present on it.

All this having been noticed, a request for a 'pass-over' has been made on behalf of counsel for the complainant, i.e. Mr. S.C.Thatai, Advocate, by Mr.Pawan Kumar, Advocate, appearing for him.

To be taken up at 2.00 pm.

The DCP, Ludhiana, need not be present.

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In the post-lunch Session, Mr. Thatai, learned counsel for the complainant, has appeared and has made a three-fold argument, as follows:-

- (i) That the complainant bank apprehends that the stamp paper used by the accused person/petitioners in executing the agreement of sale is forged and fabricated as the same is an already used stamp paper

and it has caused huge financial and monetary loss to the State Exchequer, thereby committing offences punishable under Sections 465, 467, 468 and 471 of the IPC;

(ii) That the petitioners have denied their signatures on the agreement of sale and on the other hand Tarun Jain has alleged that the agreement to sell is a genuine document, which would mean that either the signatures on the agreement are genuine and are that of the petitioners, or Tarun Jain has forged the signatures of the petitioners. This aspect is to be ascertained and enquired into by the State. Moreover, the original agreement is also to be taken into custody from either of the parties to the agreement.

(iii) The petitioners are habitual loan defaulters and most of their properties are mortgaged with either the State Bank of India, Canara Bank or the Kotak Mahindra Bank, and just to defeat the rights of the banks to recover their legitimate amounts, the petitioners get false and frivolous civil suits filed through their friends/family members, or through their acquaintances. In the present case, Tarun Jain has also been planted by the petitioners to file the instant suit, just to defeat the rights of the complainant bank.

He therefore submits that the custodial interrogation of the petitioners is required and the instant petition is liable to be rejected.

Having noticed the aforesaid arguments, however, with the DCP already having stated that the petitioners' custodial interrogation is presently not

required and if required, they would be given due notice, the petition is disposed of on the aforesaid statement made and in those terms, the order dated 24.09.2019 is made absolute.

However, the order being made absolute would not be taken in any manner to be an observation of the Court on the merits of the case, which would be subject matter of evidence gathered during investigation, with the complainant bank also always at liberty to take all remedies available to it in law, including with regard to any lacuna in the investigation.

December 03, 2019
pk/nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.