

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

**CRM-M-20509-2016(O&M)
Date of decision:-21.1.2020**

Lekh Ram

...Petitioner

Versus

Baldev Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.S.K. Verma, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of filing the present petition under Section 482 Cr.P.C., petitioner Lekh Ram craves for quashing/setting aside of order dated 24.7.2013 passed by Judicial Magistrate Ist Class, Sirsa and judgment dated 19.2.2016 passed by Additional Sessions Judge, Sirsa

Briefly stated, the facts of the case are that complainant Lekh Ram son of Kheta Ram, resident of Chattargarh Patti, Tehsil and District Sirsa had brought a criminal complaint under Sections 406/34 IPC against his son Baldev Singh and daughter-in-law – Parmeshwari Devi, on the allegations that complainant had sold his land situated at village Chattargarh Patti, Tehsil and District Sirsa and thereafter purchased land at village Sangar Saristha in the name of his sons Baldev Singh, Prahlad, Roshan, Gopal and Sushil utilizing those funds. The

complainant then sold out the land at village Sangar Saristha and handed over an amount of Rs.24 lakhs to his son Baldev Singh – accused with the instructions to further purchase the land with that amount i.e. ½ share in the name of complainant and remaining ½ share in his (Baldev Singh's) name. Baldev Singh had assured to do so. However, after some time Baldev Singh in conspiracy with his wife Parmeshwari Devi deposited an amount of Rs.20 lakhs in the name of Parmeshwari Devi in her account bearing No.5B24867 with Central Bank of India on 22.2.2007. When the complainant confronted Baldev Singh, then the latter gave an assurance that he would enter into an agreement for purchase of the land and would execute the sale deed in the name of complainant for ½ share. Similar assurance was given by accused No.2 Parmeshwari Devi. Subsequently, the accused with a *mala fide* intention purchased land measuring 7 kanals 4 marlas in the name of Parmeshwari Devi vide sale deed dated 25.10.2007, thereby they grabbed amount of Rs.24 lakhs belonging to complainant misappropriating it. When the complainant asked from the accused in that regard, they gave filthy abuses to him and quarrelled with him. On 30.6.2008 Baldev Singh along with his brother-in-law Naanu Ram, Bilkha Ram, Moola Ram besides his sons Parmod, Vinod and Sonu and wife Parmeshwari Devi attacked house of Roshan Lal son of the complainant while armed with *KAPA*, *lathi* causing injuries regarding which FIR No.462 dated 2.7.2008 for the offences under Sections 452, 323, 324, 147 and 148 IPC was registered against them with Police Station City, Sirsa. Parmeshwari Devi had also got registered FIR No.553 dated 3.8.2008 by showing false injuries upon her.

The complainant led preliminary evidence. The trial Magistrate had called report from the police under Section 202 Cr.P.C. Such report was received and in terms of which the trial Magistrate was of the opinion that the dispute between the parties was of civil nature and was with regard to partition of the properties. Therefore, Judicial Magistrate Ist Class, Sirsa vide order dated 24.7.2013 dismissed the complaint. The operative part of order for ready reference is being reproduced as under:

12. The allegations of the complainant are that he sold the land situated at village Sangar Satistha on 20.2.2007 and handed over the sale consideration of Rs.24 lac to his son accused Baldev Singh and directed him to purchase a separate land in equal share in his name and in the name of the complainant but he instead of following his direction he purchased a separate land measuring 7 kanals 4 marlas in the name of his wife Parmeshwari Devi (accused No.2) on 25.10.2007 and that sale deed is Ex.PW3/A upon the case file. It is relevant to mention that upto 24.3.2009 complainant did not take any action against accused. On 24.3.2009 complainant moved a complaint to SP, Sirsa alleging the same allegations as levelled in the present complaint. No reason has been advanced by the complainant for this delay of 17 months. Complainant was well within the knowledge of purchasing of land by accused Baldev Singh in the name of his wife Parmeshwari Devi after execution of the sale deed on 25.10.2007. In para

No.6 of the complaint, complainant himself mentioned that he complained to accused No.1 and 2 upon which accused raised quarrel and abused upon him and also threatened him with dire consequences. He also alleged that because of this reason on 30.6.2008 an altercation took place between him and accused Baldev Singh. So according to this Court, delay in the present case is fatal for the complainant because it is settled law that delay gives rise tutoring, fabrication and manipulations. Report under Section 202 Cr.P.C. as submitted by the police pointed out that actually there is a dispute regarding partition between the complainant and accused. Report under Section 202 Cr.P.C. further fortifies the fact that reasons of silence of complainant for 17 months is actually a family dispute regarding partition of the properties. When the complainant was in the knowledge of the alleged act immediately after execution of the sale deed in favour of Parmeshwari Devi then he must have raised the issue then and there and there was no impediment in availing any legal remedy. In the complaint, it is mentioned that on 30.6.2008 an altercation took place regarding which cross criminal cases are pending. So it appears that the purpose of filing the present complaint is just to put pressure upon the accused as already litigations are pending between them. No doubt at this stage, this Court has to see prima facie case against the accused but prima facie case does

not mean that process of the Court can be allowed to be misused. So according to this Court, delay in the present case in approaching the authorities regarding grievance is fatal for the complainant. Accordingly, no ground is made out for summoning accused in the present case. Hence, the present complaint is hereby dismissed. After doing the needful, file be consigned to the record room.

The complainant felt aggrieved by that order and has challenged the same by way of filing a revision petition before the Court of Sessions. Learned Additional Sessions Judge, Sirsa vide judgment dated 19.2.2016 dismissed the said revision petition finding no illegality or infirmity with the order passed by the trial Magistrate. Various factors, which weighed on the mind of learned Additional Sessions Judge, Sirsa while dismissing the revision petition were as under:

- (i) Inordinate delay of 17 months in filing of the complaint.
- (ii) The facts and circumstances of the case pointing out that actually there was a family dispute regarding partition of properties between the complainant and his son Baldev Singh – accused No.1.
- (iii) Several criminal cases are pending between the parties and the purpose of filing the complaint appeared to be a pressure tactic.

The complainant felt aggrieved by both the orders and has challenged the same by way of filing the present petition

I have heard learned counsel for the petitioner besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court. No ground is there to exercise such powers in this case since the impugned orders cannot be said to be abuse of process of the Court and no interference therewith in any manner is called for.

The orders passed by the Courts below are quite detailed and well reasoned. The Courts below have rightly refused to summon the accused giving detailed reasons.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

21.1.2020
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No