

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-19997-2021 (O&M)
Date of Decision: 11.10.2021

Mahender Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Satbir Singh Gill, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sandeep Kumar Tada, Advocate,
for respondent no.2/complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-21986-2021

Vide this application, the applicant/complaint seeks to place on record an affidavit of Hari Singh (Sarbara Nambardar), as regards the voter list of the year 2020; and a statement of Mahender Singh (petitioner herein) as Annexures A-1 to A-3 respectively.

The application is allowed subject to all just exceptions and Annexures A-1 to A-3 are ordered to be taken on record.

CRM-M-19997-2021

The reply filed on behalf of the complainant/respondent no.2, to the petition, is ordered to be taken on record.

On 25.05.2021 the following order had been passed by this court, in this petition:-

“The petitioner prays for grant of pre-arrest bail in a criminal case arising from FIR No. 42, dated 27.02.2021, registered under Section 418, 420, 467, 468 IPC read with Section 34 IPC at Police Station Nathusari Chopta, District Sirsa, Haryana.

As per the case of the prosecution, the petitioner after having entered into an agreement to sell for sale of 17 kanals 19 marlas 4 sarsai at the rate of Rs.8,55,0000/- per acre on receipt of Rs.7,50,000/- as earnest money, has transferred the land agreed to be sold in favour his wife Kaushalya Devi and is refusing to honour the agreement to sell.

Learned counsel representing the petitioner contends that the first informant has already filed two civil suits; the first -for grant of decree of permanent injunction and the second- for possession by way of specific performance of the agreement to sell. He further contends that there are no allegations that the petitioner had a dishonest intention at the time of agreement to sell which is sine-qua-non to fulfill the ingredients of an offence under Section 420 IPC.

Sh. Lupil Gupta, Advocate has entered appearance for the first informant and is unable to draw the attention of the Court to any material or assertion to rebut the argument of the learned counsel of the petitioner.

Notice of motion.

On the request of the Court, Ms. Kirti Singh, DAG, Haryana, accepts notice on behalf of the State of Haryana and prays for time to seek instructions.

Adjourned to 23.07.2021.

Keeping in view the aforesaid facts, it is considered appropriate that let the petitioner join investigation.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Today, learned counsel for the complainant/respondent no.2

points out that in fact the petitioner had made a statement before the learned Civil Judge (Junior Division), Sirsa, on 11.01.2021, to the effect that though he had executed an agreement of sale with the complainant/respondent no.2 for sale of land measuring 17 *kanals* 19 *marlas* 4 *sarsai*, on 28.01.2020, thereafter he had actually transferred the land in the name of his wife, Kaushalya (petitioner in CRM-M-16895-2021), which was “a mistake” on his part, but that he would either get a sale deed registered in favour of the complainant (plaintiff in the suit before the civil court) with the consent of his wife, or would transfer double “the amount” (Rs.7.5 lakhs as contended by learned counsel for the complainant).

Today, learned counsel for the petitioner submits that the matter may be sent to mediation.

I see absolutely no ground to do so in view of the fact that on the said statement made before the learned Civil Judge (Junior Division), Sirsa, in a suit filed by respondent no.2 seeking a decree of permanent injunction restraining the petitioner and his wife from alienating the said land, the suit was in fact withdrawn as recorded in the order (Annexure P-4), also dated 11.01.2021.

Hence, if now the petitioner wishes to back out of the statement, his intention become all the more clear, even in terms of his own statement dated 11.01.2021.

Learned counsel for the petitioner submits that as per his instructions, the petitioner is not in a position to pay the amount that he had

stated he would pay, as recorded before the learned civil court in the aforesaid order dated 11.01.2021 (copy Annexure P-3).

Consequently, finding no merit at all in the petition, it is hereby dismissed, with the interim order vacated.

(AMOL RATTAN SINGH)
JUDGE

11.10.2021
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No