

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-2178-2020

Date of Decision: 12.10.2022

Jarina

... Petitioner

VS.

Abdul Rahim & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Devender Kumar, Advocate for
Mr. Surinder Dagar, Advocate for the petitioner

Sandeep Moudgil, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of the order dated 07.09.2019 (Annexure P6) passed by learned Additional Sessions Judge, Palwal vide which the Criminal Revision No.157 of 2018 filed by the respondents was accepted and the summoning order dated 04.09.2018 (Annexure P5) passed by Sub Divisional Judicial Magistrate, Hathin, in Criminal Case No.RBT-73 of 2015 (Annexure P1), has been set aside.

The petitioner-complainant alleged that her husband, along with other persons, was co-sharer in the land measuring 8 Kanal 3 marla as detailed in para no.1 of the complaint, which is situated in village Kot, Tehsil Hathin, District Palwal. Petitioner along with her husband went to work for some time in village Ladmaka, Tehsil Pahadi, District Baharatpur, from there they came back in the year 2002. Her husband, Nathi, Deenu sons of Hasmal, Rashida son of Kallu, Jumma Khan son of Sh. Phool Khan had given their land for cultivation to Rehmat and Yasin sons of Paltu measuring 8 kanals 3 marlas. In 2002 when they came to village Kot and went to Patwari for jamabandi, then they came to know that respondent No.1 Abdul Rahim in connivance with his brother Ibrahim and Jumma i.e. respondents No.2 and 3

and one Fazula Nambardar had managed the impersonation of her husband and other cosharers and got executed and registered a forged sale deed of their land in favour of Abdul Rahim. Regarding this, her husband made complaint to Deputy Commissioner, Palwal; SP Palwal and SHO, PS Hathin and also instituted complaint in the Court. However, during the pendency of complaint, her husband died and being his legal heir, she became petitioner. For some time, she came in the Court but due to having small children and having no earning member in the family, she stopped to come to the Court and at that time, accused Mohd Ibrahim came to know about the proceeding and he assured her to return her land and that he will never interfere in the possession of land of Rehmat, so she felt assured. However, when she asked for money from Rehmat, then it revealed that Abdul Rahim had sold the land and he was trying to take possession and had made false complaint in Police Station against him, on which she got certain persons assembled, but accused persons refused to give land. Petitioner alleged that during his life time, her husband had told that neither he nor Jumma Rashida, Nathi went for registration of land, and some fake persons had been produced to conduct registry.

In the said complaint, the accused persons, namely, Abdul Rahim, Fazula Nambardar, Jumma and Mohammad Ibrahim were summoned under Sections 419/420/467/468 read with Section 120-B of IPC by learned Sub Divisional Judicial Magistrate, Hathin vide order dated 04.09.2018 (Annexure P5). Against the said order dated 04.09.2018, the respondents No.1 to 3 filed revision petition before the learned Sessions Court, Palwal which was accepted vide order dated 07.09.2019 (Annexure P6) and the

summoning order dated 04.09.2018 has been set aside relying upon an order dated 28.04.2010 which was set aside in the revision filed by the petitioner and that the complaint has been filed after a lapse of five years of the dismissal of the first complaint.

Learned counsel for the petitioner contended that the petitioner was not aware of the death of Fazula Nambardar who was witness to the sale deed and was impleaded as party to the complaint. It is further contended that it has been proved before the courts below that the fraud has been committed with the petitioner-complainant and the sale deed has been executed by impersonation. Even the expert report which opined that the disputed impressions were not identical with the standard thumb impressions, was also not taken into consideration by the court below.

Having heard learned counsel for the petitioner, I do not find any illegality in the order passed by the learned Additional Sessions Judge, Palwal.

It is rightly observed that the Magistrate should have firstly taken into consideration the delay in filing the complaint and the underlying motive of petitioner-complainant to file such complaint. The respondent No.1, who became the owner of total land measuring 8 kanals 3 marlas out of which complainant's late husband Yasin/Andha had share of only 12 marlas. The complainant's said late husband during his life time admittedly filed the complaint on the same facts by impleading only three accused Abdul Rahim, Fazula Nambardar and Jumma. Even at the time of institution of that complaint way back on 23.12.2002, accused Fazula had expired. The complaint filed by the petitioner appears to be nothing but an abuse of

process of law and to settle personal scores in civil matter. It has come on record that there is no evidence to prove that the sale deed was fake and fabricated. The petitioner filed the second complaint after 5 years of dismissal of the first complaint on identical grounds/allegations.

In my considered opinion, the order passed by the learned Additional Sessions Judge, Palwal, is purely based on facts and law and does not warrant any interference by this Court.

Dismissed.

12.10.2022

V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No