

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-28951-2019

Date of Decision:-04.12.2023

Santa Singh.

.....Petitioner.

Vs.

Jagtar Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Raman Mohinder Sharma, Advocate for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in the petition under Section 482 Cr.PC is for setting aside the order dated 04.03.2017 (Annexure P-1) passed by Sub Divisional Judicial Magistrate, Moonak whereby the Criminal Complaint No.COMI-35-2014 (Registered Vide Complaint No.66 dated 25.08.2014) has been dismissed without summoning the accused and to set aside the judgment dated 05.09.2018 passed by Additional Sessions Judge, Sangrur (Annexure P-2) vide which the revision petition filed by the petitioner has also been dismissed.

2. The brief facts of the case are that the petitioner/complainant-Santa Singh (now represented through his Lrs) instituted the complaint under Section 420, 453, 426, 427, 441, 379, 511, 467, 468, 471, 120-B IPC P.S. Moonak with the allegations that the respondent/accused Jagtar Singh in connivance with the other accused had entered into agreement to sell dated 11.11.2013 alleging himself to be the owner of the house in dispute for a sum of Rs.20 lacs with Pritam Singh and Binder Singh and received a sum of Rs.20 lacs, though the said Jagtar Singh had no concern with the property in question. The said agreement had been witnessed by Mohan Singh and Pargat Singh accused/respondent nos.8 & 9.

3.

The aforesaid complaint came to be dismissed by the court of

Sub Divisional Judicial Magistrate, Moonak vide judgment dated 04.03.2017 (Annexure P-1).

4. The petitioner/complainant preferred a revision petition against the order dated 04.03.2017 which also came to be dismissed by the court of Additional Sessions Judge, Sangrur vide judgment dated 5.9.2018 (Annexure P-2).

5. The aforementioned judgments are under challenge in the present revision petition.

6. The Counsel for the petitioner/complainant (now represented through his Lrs) contends that the respondent no.1 Jagtar Singh in connivance with other respondents had entered into the agreement to sell dated 11.11.2013 alleging himself to be the owner of the disputed house and had received a sum of Rs.20 lacs despite the fact that he was aware that he was not the owner and that the owner was the complainant alone. In fact Jagtar Singh was only occupying a room given to him by the petitioner/complainant in a family settlement. It was apparent that the said agreement to sell was fabricated because pursuant thereto no attempt was ever made to get the said sale deed executed. The Trial Court at the stage of summoning was to examine as to whether a prima facie case was made out but ignored the settled proposition of law and summarily dismissed the complaint vide impugned order. The said illegality had been perpetuated by the court of Additional Sessions Judge, Sangrur vide his judgment dated 05.09.2018. By no stretch of imagination could it be said to be a case of civil nature alone. Therefore, the judgments were liable to be set aside and the respondent/accused were to be summoned in accordance with law.

7. I have heard the Counsel for the petitioner.

8. A perusal of the file would reveal that no offence of forgery and cheating is made out. Even if it was assumed that Jagtar Singh had entered into agreement to sell by representing himself to be the owner of the property in dispute, though he was owner only to the extent of 1/6th share, no offence of forgery is made out. At the most it can be said to be a case of cheating in which case the persons aggrieved would be Binder Singh and Pritam Singh who had been cheated by the respondent/accused Jagtar Singh as they had parted with a sum of Rs.20 lacs for the house of which Jagtar Singh was not the exclusive owner. The said proposition of law has been clearly enumerated by Hon'ble Supreme Court in ***Md. Ibrahim & Ors. Vs.***

State of Bihar & Anr. 2009(4) RCR (Criminal) 369. The petitioner/complainant Santa Singh was well within his rights to challenge the agreement to sell before the Civil Court. As regards the offence of theft other than the self serving statement of CW-8 Gurwinder Singh there is absolutely no other independent or corroborative evidence of the same.

7. In view of the above, I find no reason to interfere with the well reasoned judgments of the Sub Divisional Judicial Magistrate, Moonak dated 04.03.2017 (Annexure P-1) and the Additional Sessions Judge, Sangrur dated 05.09.2018 (Annexure P-2) and therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 04, 2023

Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No