

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

CRR-1293-2023

Reserved on : 12.07.2023

Pronounced On : 17.07.2023

Sushma

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ajay Singla, Advocate, for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

HARNARESH SINGH GILL, J.

Challenge in the present revision petition is to the orders passed by the Courts below whereby respondent Nos. 2 and 3 have been acquitted of the charges framed against them under Sections 120-B, 420, 406, 467, 468 and 471 IPC, in FIR No.1123 dated 31.08.2012 registered at Police Station City, Panipat.

The aforesaid FIR was registered by the petitioner-complainant against respondent Nos. 2 and 3 with the allegations that respondent No.2-Manoj, had projected himself to the owner of plot bearing Khasra No. 7/28 min, admeasuring 100 sq. yards, Patti Siwah Kheri, Panipat; that respondent No.3-Joginder gave an assurance that the plot was in possession of respondent No.2-Manoj and was free from all encumbrance; that in pursuance of a conspiracy, both the said respondents had prepared an agreement to sell qua the said plot, @ Rs.2650/- per

sq. yards; that the complainant/her husband paid the said respondents a sum of Rs.80,000/- on 03.11.2020 and subsequently, another sum of Rs.50,000/- and the date for registration of the sale deed was extended to 11.11.2010; that when the complainant and her husband reached the Office of Sub Registrar on the said date, respondent Nos. 2 and 3 did not come present there; that when the complainant and her husband obtained Jamabandi for the year 2007-08, they came to know that respondent-Manoj was not the owner of the plot in question and, thus, respondent Nos. 2 and 3 had cheated the complainant and her husband of Rs.1,30,000/-.

After presentation of the challan, charges under Sections 406, 420, 467, 468, 471 and 120-B IPC were framed against respondent Nos. 2 and 3. The prosecution led its evidence. Thereafter, the entire incriminating material was put to respondent Nos. 2 and 3. Their statements under Section 313 Cr.P.C. were recorded, in which they denied charges and pleaded innocence. The accused, then led their evidence.

The learned trial Court, after taking into consideration the rival contentions and the evidence on record, acquitted the accused, observing that the prosecution had failed to prove the charges of cheating against the accused persons beyond the reasonable doubt. It was further found that earlier the complainant filed a complaint verbatim on the same facts and issue, which was dismissed by the Court of competent jurisdiction vide order dated 10.07.2012 Exhibit D.6 and the said fact was withheld by the complainant, while submitting

another complaint dated 19.07.2012 before the Inspector General of Police, on the basis of which the FIR was registered. It was further found that a suit for recovery filed by the petitioner-complainant, was dismissed by the Civil Court, by recording a finding that the plaintiff therein (petitioner-complainant herein) had failed to prove the execution of the agreement dated 15.10.2010 and the fact that she had paid respondent No.2-Manoj, a sum of Rs.1,30,000/-. It was, thus, held that the findings recorded by the Civil Court are binding on the Criminal Court.

Aggrieved against the judgment of acquittal passed by the trial Court, the petitioner filed an appeal before the Sessions Court. Vide judgment dated 19.12.2022 passed by the learned Additional Sessions Judge, the appeal was dismissed and the findings of the trial Court, were upheld. Still aggrieved, the petitioner has filed the present petition.

Learned counsel appearing for the petitioner vehemently argues that both the Courts below have failed to appreciate the criminal intent on the part of respondent Nos. 2 and 3, right from the beginning. It is further submitted that it is settled law that the civil and criminal proceedings can go on parallel and in the instant case, where respondent No.2 and 3 had projected, respondent No.2 to be the owner of the land in question, there was no occasion for the Courts below to rely upon the findings recorded by the Civil Court.

It is further submitted that once the petitioner-complainant was cheated and an amount of Rs.1,30,000/- was

usurped by the respondents-accused, the Courts below ought to have examined the culpability of the crime committed by them, instead of recording a finding based on the Civil Court verdict.

I have heard the learned counsel for the petitioner and have also gone through the case file.

It is admitted position on record that the suit for recovery filed by the petitioner against respondent Nos. 2 and 3, was dismissed by the Civil Court on 18.12.2015. In the said suit, the relevant findings whereof, were extracted by the trial Court in para No. 12 of its judgment, the petitioner-complainant had sought recovery of the amount on the basis of the agreement to sell dated 15.10.2010. The said very agreement to sell is also the basis of the present proceedings as well. While dismissing the said suit, the Civil Court had recorded a finding that the complainant-petitioner had failed to prove the execution of the agreement to sell dated 15.10.2010. Still further, it has also come on record that the earlier complaint submitted by the petitioner-complainant on the same set of facts, was dismissed by the Court vide order dated 10.07.2012, Exhibit D.6, and the said fact was withheld by the petitioner-complainant in her subsequent complaint dated 19.07.2012 on the basis whereof the present FIR was registered.

Apart from the said findings, the learned Appellate Court, while dismissing the appeal, recorded a finding that the petitioner-complainant had been in the know of respondent No.2- Manoj, not being the owner of the land in question. It was found that in the agreement to sell dated 15.10.2010, it was

clearly mentioned that respondent No.2 was not the owner of the property and the he had entered the said agreement on the basis of an earlier agreement executed by him. It was, thus, held that this very fact being in the knowledge of the petitioner-complainant, there was no dishonest or mala-fide intention on the part of accused-respondent No.2. It was further found that respondent No.3 was merely an attesting witness to the agreement to sell and there was neither any allegation of impersonation nor forgery of any document.

The findings recorded by the Courts below are the plausible ones and it could not be pointed out that the same suffer any illegality. Still further, in the revisional jurisdiction, this Court is not to re-appreciate the evidence.

No other point has been urged.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

17 .07.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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