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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41813-2015 (O&M)

Date of decision: October 05, 2023

Kuldeep Singh and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Jasmail Singh Brar, Advocate for the petitioners.

Mr. Hakam Singh, AAG, Punjab.

None for respondent No.2.

ARUN MONGA, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 200 dated 14.11.2013 under Section 420 & 120-B IPC registered at Police Station City Gurdaspur, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising thereto i.e., Charge sheet dated 07.06.2014 (Annexure P-13), order dated 09.10.2014 (Annexure P-14) passed by learned CJM Gurdaspur for framing of charges under Section 420 IPC read with Section 120-B IPC and order dated 17.04.2015 (Annexure P-15) passed by learned Additional Sessions Judge, Gurdaspur vide which the revision petition against above said order dated 09.10.2014, was dismissed.

2. Succinct facts as pleaded in the petition. On 03.04.2003, petitioners agreed to sell land on Behrampur Road, Gurdaspur to respondent No.2 at Rs. 37,50,000/- per acre, receiving Rs. 5,00,000/- as earnest money. Sale deed deadline extended to 27.10.2004, but respondent No.2 didn't show up, claiming he lacked the sale consideration. On 11.11.2004, respondent No.2 sued for specific performance of the agreement, seeking possession of 13 Kanals of the

land, and requested an alternative recovery of Rs. 20,00,000/- for alleged breach of contract. During the suit, respondent No.2 delayed proceedings and produced a medical certificate. On 14.01.2005, he claimed he wasn't ready to execute the sale deed due to a revision petition and accused the defendants of refusing to execute different sale deeds. Despite many chances and legal notices, respondent No.2 didn't comply with the court decree. On 14.10.2005, he filed an application for amending the decree, attempting to adjust stamp papers for scribed sale deeds, which was beyond the court's power. All these actions suggest respondent No.2 lacked the full consideration and required fees for the sale deed, leading to this petition.

3. Learned counsel for the petitioners argues that it is crystal clear that case of civil nature which has been given the color of criminality where none exists. He further submits that respondent No.2 under the garb of present FIR is taking a shortcut way, by means of arm-twisting tactics to get relief of civil nature.

4. On the other hand, learned State counsel strenuously opposes the prayer made in the petition and submits that in the present case, commission of offence under Sections 420, 120-B IPC is *prima facie* established against the petitioners.

5. Though respondent No.2 on the previous dates of hearing was represented, but none appears on his behalf today. Same was the position on the last date of hearing. Despite availing various opportunities respondent No.2 has chosen not to file any reply, which is deeming suggestive that he has no objection in allowing of the present petition.

7. I have heard learned counsel for the parties and perused the record.

8. The stand taken in Para Nos. 3, 4, 5 and 6 of the petition has not been controverted by respondent No.2 and same being apposite is reproduced hereinafter:

“3. That on 11.11.2004, respondent no.2 (plaintiff) filed suit inter alia for possession by way of specific performance of agreement dated 3.4.2003, in respect of land 13 Kanals out of land measuring 17 Kanals 06 Marlas, on payment of proportionate balance sale price, alleged to be Rs.48,25,812.50 or as determined by the Ld. Court. Respondent no.2 also made alternative prayer in the plaint for recovery of Rs.20 lacs i.e. Rs.10 lacs towards return of the advance money and Rs.10 lacs as stipulated damages for alleged breach of contract. It was his case that as per the terms and conditions of agreement dated 3.4.2003 defendants (now petitioners) executed sale deed in respect of 3 K 3 M out of land mentioned in agreement. It was further pleaded that sale deed in respect of 1 K 3 M out of land of agreement had already been made.

*4. That upon service, defendants/petitioners put in appearance before the Court on 24.11.2004 and on the adjourned date i.e. 30.11. 2004, filed an application, copy whereof is annexed hereto as **Annexure P-2**, stating that they were ready and willing to execute the sale deed in favour of plaintiff respondent no.2 as per agreement and as such, he be directed to get sale deed executed and registered from them immediately. The Ld. Additional Civil Judge (Senior Division), vide order dated November 30, 2004, while noting the aforesaid fact, directed the Counsel of Plaintiff/Respondent to produce the Plaintiff on December 1, 2004. For ready reference, order dated November 30, 2004 is reproduced as under-*

“Present: Counsel for the parties.

Instead of filing W. S. and reply to injunction application, Ld. Counsel for the defendants moved an application u/s 151 C.P.C. stating that the defendants are ready and willing to execute sale deed in favour of the plaintiff, as per agreement. Ld Counsel for the plaintiff is directed to produce the plaintiff on 1/12/04.

*SW/ACJSD
30/11/04”*

5. That on December 1, 2004, Plaintiff/respondent no.2 appeared in Court and sought time to make statement. In view of his request, case was adjourned to December 4, 2004. On the adjourned date again, an adjournment was sought by him for making the statement and accordingly, the case was adjourned to December 7, 2004. On December 7, 2004 while agreeing to get the sale deed executed, respondent no.2 prayed that sufficient time be given for the said purpose. The Ld. Trial Court directed the parties to attend the Court on December 17, 2004 and then go to the office of Sub Registrar for execution of the sale deed. For ready reference, the orders dated December 4, 2004 and December 7, 2004 are reproduced as under:-

"Present: Counsel for the plaintiff and defendant.

Adjournment requested by the Id Counsel for the plaintiff, which is allowed. Adjourned to 7/12/04 for making any statement by the plaintiff

*Sd-
ACJ SD.4/12/04"*

"Present: Counsel for the parties.

Gurjit Singh, plaintiff has appeared and made a statement that as per terms and conditions of the agreement of sale dated 3.4.2003, he is ready and willing to get the sale deed executed from the defendants as and when the court orders and prayed that sufficient time be given for this purpose and suit may be decreed with costs. In view of the statement of the plaintiff, both the parties are directed to attend the court on 17.12.2004 and then to go to the office of Sub Registrar, Gurdaspur for execution of the sale deed as per terms and conditions of the agreement of sale dated 3.4.2003 and then report be made to the court accordingly.

*Sd/ACJ SD.
7/12/04"*

6. That on December 17, 2004, when the case was called, neither Plaintiff nor his counsel appeared. The Defendants/Petitioners appeared and again reasserted their willingness to execute the sale deed. The Ld. Trial Court, inter alia, passed the order but ordered the case to be called again at 11.00 AM. For ready reference, the order passed by the Ld. Civil Judge is reproduced as under:

"Present: None for the plaintiff.

Sh. S.P. Mahajan, Adv. counsel for defendants.

Case called at 10 AM but neither the plaintiff nor his counsel has appeared. Both the defendants have appeared and shown their willingness to execute the sale deed in favour of the plaintiff. Case be again called at 11 A.M.

*Sd-
ACJ SD. 17/12/04"*

When the case was again called, the Plaintiff/Respondent no.2 put in appearance through a changed lawyer, who filed an application inter alia for referring the matter to the Lok Adalat for settlement of the alleged dispute of the parties regarding refund of the court fee. In fact, neither any such issue had been raised nor any such adjustment was sought. It was inter alia pleaded in the application that the Ld. Court while passing the order dated December 7, 2004 did not consider the prayer of the Plaintiff for decreeing the suit with costs. The Plaintiff instead of putting in appearance as per the directions of the Court produced his medical certificate from a private doctor. The Ld. Court again directed the counsel for the Plaintiff to produce the Plaintiff on December 21, 2004. In the humble submission of the Petitioners, the Defendant/Respondent did not have money to pay the balance sale consideration and get the sale deed executed and as such, was

putting off the matter on one pretext or the other. Although, the Ld Trial Court was under legal obligation to dispose of the suit but it kept on adjourning the case on the asking of the Plaintiff for one reason or the other. Even on the adjourned date i.e. December 21, 2004 also, the Plaintiff did not put in appearance. For ready reference, the orders dated December 17, 2004 and December 21, 2004 are reproduced hereunder:-

"Present: Sh. Ranjit Singh, Adv. counsel for Plaintiff.

Sh. S.P. Mahajan, Adv, counsel for defendants.

Sh. Ranjit Singh, Advocate, has appeared on behalf of Plaintiff and filed Power of Attorney and an application u/s 151, 152, 153 CPC and UIs CPC read with Section 20 Sub Section (1) of the Legal Services Authority Act, 1987. He has also produced medical certificate of the plaintiff. Copy of the application supplied. Thereafter, both the defendants have made statement that they have come to the court at 10 AM for execution of the sale deed as per orders of the Court but the Plaintiff has not come to the Court. They are willing to execute the sale deed and have also brought the copy of the Jamabandi. Ld. Counsel for the plaintiff is again directed to produce the plaintiff in the court on 21.12.2004 at 10 AM to get the sale deed executed in his favour from the defendant. Defendants are also directed to appear on the date fixed at 10 AM.

Reply to the application filed by the plaintiff be also filed on next date.

Sd/-

ACJ SD. 17/12/04"

"Present: Counsel for the plaintiff

Sh. S.P Mahajan, Adv. counsel for defendants.

Reply to application filed. Copy supplied.

Both the defendants have appeared in person also. An application for exemption of personal appearance of plaintiff has also been filed, supported by Medical Certificate. Adjournment is requested by Ld Counsel for the plaintiff. In view of it, Ld Counsel for plaintiff is directed to produce the plaintiff again in the court on 14.1.2005 at 10 AM to get the sale deed executed in his favour from the defendant.

Defendants are also directed to appear on the date fixed at 10AM.

Sd/ACJ

SD.

21/12/04"

9. In view of the un rebutted stand of petitioners, I find that no case of any criminal culpability has been made out. Even otherwise, having perused the record and the given my thought to the arguments canvassed, I am of the view

that it is an out and out case of civil dispute between the parties. Particularly, in view of the complainant/ respondent No.2 himself having resiled from the agreement.

6. In the premise, being a civil dispute, the present petition is allowed and FIR No. 200 dated 14.11.2013(Annexure P-1), under Section 420, 120-B IPC, registered at Police Station, City Gurdaspur, District Gurdaspur and all the subsequent proceedings arising thereto i.e.,charge sheet dated 07.06.2014 (Annexure P-13) order dated 09.10.2014 (Annexure P-14) passed by learned CJM Gurdaspur for framing of charges under Section 420 IPC read with Section 120-B IPC and order dated 17.04.2015 (Annexure P-15) passed by learned Additional Sessions Judge, Gurdaspur, vide which revision petition against the said order dated 09.10.2014 was dismissed, are quashed.

7. Pending applications, if any, shall also stands disposed of.

(ARUN MONGA)
JUDGE

October 05 2023
Kv/Mohit

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