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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46841-2018 (O&M)

Date of decision: 20.07.2023

Gurdev Kaur (deceased) through her Legal heirs and another

...Petitioners

Vs.

Pawan Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sanjeev Kumar Arora, Advocate,
For the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

ARUN MONGA, J. (ORAL)

CRM-37739-2018

This is an application for bringing LR's of petitioner (Gurdev Kaur) on record, who is stated to have expired on 18.12.2017.

For the reasons stated in application, same is allowed subject to all just exceptions. Legal representatives of petitioner, as mentioned in Para 2 of the application, are ordered to be impleaded. Memo of parties betaken on record.

Main case

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 18.08.2015 (Annexure P-1) passed by learned Judicial Magistrate First Class, Faridkot vide which complaint under Sections 418, 420, 467, 468, 465, 471, 109 and 120-B IPC against the respondents was dismissed and order dated 18.11.2016 (Annexure P-3) passed by learned Additional Sessions Judge, Faridkot, whereby revision filed against the order was also dismissed.

2. Facts as pleaded in the petition. Petitioners filed a complaint against the respondents stating therein that the complainants along with other family members are owners in possession of 16 Kanals 7 Marlas of land situated at Faridkot. It was further stated that accused Pawan Kumar, Pardeep Kumar,

Surinder Singh and Tarsem Lal entered into an agreement with the complainant and her sons vide agreement dated 15.09.2008 @ Rs. 71,00,000/- per acre and at the time of agreement, they gave Rs. 15,00,000/- as earnest money to complainant. After that instead of getting sale deed executed, another agreement dated 16.02.2010, to extend time was scribed and said agreement was signed by the sons of the complainant as well as her attorney. It was further stated in the complaint that the accused persons had formed a group to cheat the complainant and her sons and under the garb of said agreement got executed various sale deeds on different dates with different persons and when the complainant and her sons made a demand of the remaining amount of the sale deeds, accused persons on one pretext and the other made lame excuses and did not pay the amount of sale deeds to the complainant and had cheated the complainant and her sons.

3. Learned counsel for the petitioners submits that complaint was dismissed by Learned Judicial Magistrate First Class, Faridkot vide order dated 18.08.2015 (Annexure P-1) by holding that there is no sufficient evidence/material on record to summon the accused persons. It was held that dispute, if any, between the parties is of civil in nature. Aggrieved against the said order, petitioners filed a revision which was also dismissed vide order dated 18.11.2016 (Annexure P-3).

3.1. Learned counsel for petitioner further submits that both the Courts below wrongly concluded that there is no prima facie evidence to summon the accused whereas sufficient oral and documentary evidence has been placed on record to prove the offence of deceit and criminal intention of the respondents.

4. Arguments heard.

5. Order dated 18.11.2016 (Annexure P-3) passed by learned Additional Sessions Judge, Faridkot, assailed herein, is premised, *inter alia*, on the following reasoning:

“6. Upon hearing learned counsel for the complainant/ revisionist-petitioner and perusing the record on file, I do not find any illegality or infirmity in the impugned order dated 18.08.2015, under revision passed by the learned Lower court. Even if the

avermment of the complainants are taken as its face value, once the sale-deeds are executed, the agreement, become redundant. Perusal of documents Ex.CW6/C and Ex.PW6/E shows that some sale-deeds had been executed between the parties, which are registered documents, where it has been categorically stated that the entire sale-consideration has been received. Therefore, I find that dispute, if any between the parties is basically a civil in nature and not criminal, as it can not be said that there was any intention to cheat the complainant at the outset as earnest-money once Rs.15,00,000/- and again Rs.8,00,000/- was paid and there-after, sale-deeds were duly executed by the complainant. Averment of the complainant that the sale- deeds were executed at a lesser amount then allegedly agreed in the agreements, does not inspire confidence of the court as they had failed to explain the same. Once a registered document has been executed, it can not be said that the same was executed by cheating or fraud, when once the same was for fully consideration as detailed in the sale-deeds.

7. Therefore, in view of above discussion, I find no illegality and infirmity in the impugned order dated 18.08.2015, under revision passed by the learned Lower court, Faridkot, calling for any interference of this court. Hence, the instant revision-petition filed by the complainant/revisionist-petitioner Gurdev Kaur and other is hereby dismissed and order of the learned court aforesaid is upheld.”

6. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law.
7. There is thus no room for interference in the aforesaid valid reasons recorded by learned Court below, with which I am in agreement. The petition *sans* merit and the same is hereby dismissed.
8. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

20.07.2023
vandana

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