

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

113

CRM-M-26034-2023

Date of decision : 10.08.2023

Sandeep Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.SK Yadav, Advocate for the petitioner

AMAN CHAUDHARY, J.

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for issuance of direction to Additional Sessions Judge, Narnaul to decide the application under Section 173(8) CrPC in FIR No.46 dated 18.02.2021, registered under Sections 386, 392, 395, 397, 506, 201, 34 and 120B IPC and Section 25 of the Arms Act, 1959 at Police Station Ateli, District Mohindergarh.

2. The FIR in question was lodged at the instance of complainant-Sandeep Kumar, the present petitioner, who stated that in January 2011, he had entered into an agreement with one Prem Lata and Sharwan Devi for purchasing of 17 kanal of land for an amount of Rs.25.5 lac and out of the said sale consideration, he had paid a sum of Rs.22.50 lac as earnest money. However, the aforementioned Prem Lata and Sharwan Devi were not coming forward to execute the sale-deed. The complainant filed a civil suit, which was decreed in his favour, despite that the sale deed was not executed by the accused. Subsequently, he was forced to get the

sale-deed registered in the name of the wife of Dharmender Master and was given an amount of Rs.30 lakhs though he did not intend to sell the land. The complainant had also entered into an agreement for purchase of a plot measuring 2 marlas situated in Ateli Mandi, District Mohindergarh for an amount of Rs.25 lakhs from one Rati Ram and had given an earnest amount of Rs.11.50 lakhs. Since Rati Ram was not coming forward to execute the sale-deed, Yogender offered to get the same executed for an amount of Rs.3 lakhs as commission. The said Yogender was accompanied by Vikki @ Vikrant and said Vikki @ Vikrant issued a threat that in case he did not cooperate with them, then he would lose his life. When the complainant went to the office of Yogender on 15.2.2021 along with a cash amount of Rs.16 lac and a cheque of Rs.4 lac, he found that Yogender and one more person were present there and another 4 boys came there, who snatched the amount of Rs.16 lac, from the complainant.

3. Learned counsel has submitted that there are specific allegations against the accused persons of looting and threatening the petitioner, despite that the police did not conduct a proper investigation in the matter and had filed a tainted challan against the accused. The petitioner has also filed an application before the trial Court under Section 173(8) Cr.P.C. for directing the investigating agency to conduct further investigation, but it was not accepted on the ground that it has not been forwarded by the Public Prosecutor. He cites **Bharati Tamang vs. UOI and others**, Writ Petition (Crl.) No.159 of 2012 decided on 08.10.2013 and **Sri Bhagwan Samardha Sreepada Vallabha Venkata Vsihwandadha Maharaj vs. State of Andhra Pradesh**, Criminal Appeal No.638 of 1999 decided on 15.07.1999.

4. Heard the learned counsel and perused the file.

5. In **Rekha Murarka vs. The State of West Bengal and Anr.**, (2020) 2 SCC 474, Hon'ble The Supreme Court observed that "There is an amendment in section 24(8) which replaces word cooperation with assist in 2009. Therefore, the private counsel engaged at the behalf of victim can only assist with permission of the court before magistrate. However, in sessions trial as per section 300 it is the public prosecutor only and the word used is shall. Thus, firstly there is a distinction in respect of private counsel of victim with regard to magistrate trial and court of sessions. Secondly, the public prosecutor being neutral, impartial and officer of court, having experience is at better footing which helps in leading the trial, free from confusion and two separate lines. In the aforesaid judgment, all the relevant sections are well explained, confirming the role of Public Prosecutor in a trial."

6. In the present case, after investigation, final report under Section 173 Cr.P.C. was filed wayback on 06.03.2022, whereafter, even the charges were framed on 10.01.2023, but during this interregnum, the petitioner never agitated the issue and is now meaning to get further investigation in the matter conducted, for which purportedly an application dated 05.02.2023 had been prepared, which is rightly not being accepted, the same being not through the Public Prosecutor, which is in line with the law as settled. Moreover, apparently, the allegations mentioned in the application filed by the petitioner are the same on the basis of which the FIR was registered, which have already been investigated, based on which the final report was presented. The petitioner seems to be wanting to prolong the trial.

7. The judgments cited by the counsel for the petitioner are distinguishable on facts.
8. In view of the above discussion, this Court finds no merits in the present petition and as such, the same is hereby dismissed.

10.08.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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