

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-32165-2022

Date of decision: 11.08.2023

Himmat Singh

.....Petitioner

Versus

Dalel Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Himmat Singh, petitioner in person.

Mr. Amit Sharma, Advocate
for respondents No.1, 3 and 4.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner has challenged the order dated 07.02.2020 (Annexure P-1) passed by learned Additional Sessions Judge, Gurugram vide which the revision petition preferred by him to impugn the order dated 23.01.2015 passed by learned Judicial Magistrate 1st Class, Gurgaon in Criminal Complaint No.6 dated 21.01.2013 titled as 'Himmat Singh Vs. Dalel Singh and others' under Sections 211, 420, 467, 468, 471, 120B and 34 of the IPC registered at Police Station City Gurgaon, was dismissed.

2. The petitioner appearing in person has contended that the impugned orders suffer from patent illegality and are contrary to the material on record. Thus, they deserve to be set aside.

3. The petitioner has *inter alia* contended that the learned Courts below failed to appreciate that one Kartar Singh Sold 02 biswas

of land for a sale consideration of ₹1,800/- to Ran Singh (father of the petitioner) and respondent No.1-Dalel Singh on 01.06.1981 and the possession of the land was also handed over to them. The petitioner, after the death of his father on 10.03.1978, constructed a *samadhi* on his share of the abovementioned 02 biswas of land. On 19.08.2008, respondent No.1-Dalel Singh filed a reply along with site plan dated 08.08.2002 in the civil suit filed by the petitioner. It was only through reply filed in the aforementioned civil suit, it came to the notice of the petitioner that respondent No.1-Dalel Singh had demolished the *samadhi* of his father Ran Singh and thereafter, he along with his family members had blocked the passage by installing submersible pump, latrines and septic tank etc. thereupon. Respondent No.1-Dalel Singh with the help of Azad Singh and others subsequently illegally executed two sale deeds bearing No.8545 dated 20.08.2009 and 10849 dated 22.09.2009. In the first sale deed, they forged the thumb impression of Parkash Kaur and signatures of Megh Singh on the application for NOC while second deed was executed without any NOC, even though there was an order of the Civil Court for maintaining status quo. The factum of the aforesaid sale deeds was disclosed by respondent No.1-Dalel Singh for the first time in his reply to the complainant's appeal before the learned Appellate Court on 03.12.2012. Dalel Singh also filed an affidavit dated 11.11.2007 before the Civil Court at Gurgaon which was totally contradictory to his reply dated 03.12.2012. Still further, respondent No.1-Dalel Singh not only produced forged and fabricated documents but also concealed true and

material facts from the Civil Court, Gurgaon during the pendency of the suit, hence, had committed perjury. However, as soon as the petitioner learnt about the forgery and fabrication of documents and the factum of respondent No.1-Dalel Singh playing a fraud upon the Court, he immediately approached the police with a complaint. Despite the petitioner approaching the police by way of a complaint, no FIR was registered. Hence, the petitioner filed a private complaint before the learned Magistrate at Gurgaon which was dismissed on grounds of maintainability vide order dated 23.01.2015. The appeal preferred against the order dated 23.01.2015 met the same fate and was also dismissed on the grounds of maintainability vide order dated 04.06.2015. Thereafter, the petitioner challenged the order dated 04.06.2015 before this Court which then remanded it back to the Court of Sessions vide order dated 11.02.2019 to treat the appeal as a revision and decide it afresh. The petitioner has asserted that the Court of Sessions erred in dismissing the revision petition vide the impugned order on the basis of conjectures by firstly not appreciating the material on record and still further by wrongly holding that the petitioner was not owner of equal share qua 02 biswas of land.

4. The petitioner has still further argued that his ownership stands proved from the fact that his mother along with respondent No.1-Dalel Singh had filed CWP No.1333 of 1990 to challenge the acquisition proceedings by HUDA which was allowed vide order dated 31.08.1992. He has contended that as per records of the aforementioned writ petition, report of the Surveyor dated 26.03.1992 established that respondent No.1-Dalel Singh and mother of the petitioner i.e. Ram

Kaur, were owners in equal possession of the land. Report dated 31.08.1992 of the Local Commissioner who was appointed by this Court also proved that *samadhi* constructed by the petitioner was in existence at khasra No.523. Furthermore, there was no record to show the possession of Parkash Kaur on the property in question, therefore, sale deed dated 22.09.2009 executed by Parkash Kaur in favour of Megh Singh whereby possession of 02 biswas of land was allegedly delivered to him, was a result of forgery.

5. The petitioner has vehemently argued that there was sufficient material to support his ownership over 02 biswas of land which the learned Sessions Judge erred in ignoring. He has argued that respondent No.1-Dalel Singh was liable to be prosecuted for filing a false affidavit on 12.11.2007 before the Trial Court. He has further submitted that at the stage of summoning, the Courts below had adopted a hyper-technical approach, and if the respondents were summoned then the petitioner would get enough opportunity to produce cogent evidence to expose the fraud and misdeeds of the respondents.

6. Per contra, learned counsel appearing for respondents No.1, 3 and 4 has prayed for dismissal of the instant petition by urging that there was no evidence to prove the ownership of the petitioner over 02 biswas of land. He has submitted that even the civil suit instituted by the petitioner was only partly decreed to the extent of 01 biswa of land, as the petitioner was unable to prove joint ownership over the remaining 02 biswas of land. He has further contended that the findings of the Trial Court were never challenged by the petitioner before any Court of appeal and had since attained finality. Still further, since the

petitioner had failed to prove his ownership by way of any cogent evidence, the Revisional Court had rightly observed that the offences as alleged in the complaint were not made out. Learned counsel has lastly contended that the sale deeds were validly registered by the true owners of the land, therefore, there was no question of any forgery or fabrication of any documents.

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

8. The petitioner has filed a complaint under Sections 211, 420, 467, 468, 471, 120B and 34 of the IPC against the private respondents.

9. In order to attract the mischief of Section 420 of the IPC the following ingredients are to be satisfied:-

(i) there must be some deception practised upon the complainant by the accused;

(ii) the person so cheated must have dishonestly induced to deliver some property; or

(iii) make, alter or destroy valuable security or anything signed or sealed, and which is capable of being converted into a valuable security.

10. Though the petitioner vehemently contended that his father had purchased 02 biswas of land in khasra No.523 in joint ownership with respondent No.1-Dalel Singh. However, other than his submissions, nothing was placed on record to substantiate the ownership of the petitioner's father over 02 biswas of land. The impugned order reveals that in the jamabandi for the year 1982-83 qua

the land comprised in khasra No.523, Kartar Singh was shown to be the exclusive owner in possession of 0-12 biswas of land to the extent of 1/6th share. After the death of said Kartar Singh, his daughter Parkash Kaur being his sole legal heir inherited his share including the disputed 02 biswas of land. Parkash Kaur daughter of Kartar Singh, subsequently sold this 02 biswas of land vide registered sale deed No.8545 dated 20.08.2009 to Megh Singh for a sale consideration of ₹17,27,500/-. Even thereafter, Megh Singh sold 02 biswas of land through sale deed bearing No.10849 dated 22.09.2009 to respondent No.2 for a sale consideration of ₹18,85,000/-. Therefore, respondent No.2 is presently the exclusive owner of the said 02 biswas of land. The petitioner in his civil suit failed to prove that the land measuring 02 biswas was purchased by his father Ran Singh and respondent No.1- Dalel Singh, from Kartar Singh. It is a matter of record that the said findings of the Civil Court qua 02 biswas of land was never challenged by the petitioner by way of any appeal and had since attained finality. Still further, in the absence of any registered document, the ownership of immovable property cannot be transferred. It also would be relevant to notice that the petitioner even failed to prove receipt dated 01.06.1981. In these circumstances, the respondents cannot be said to have acted in a prejudicial manner to the title of the petitioner by selling 02 biswas of land. There is nothing which would prevent the true owner to sell the land owned by him or her and it would certainly not amount to commission of any offence.

11. In the instant case, on a bare reading of the complaint, the

aforesaid ingredients to attract the mischief of an offence under Section 420 of the IPC are clearly missing. The complaint instituted by the petitioner nowhere discloses that the respondents practised deception upon him and dishonestly induced him to deliver the possession of 02 biswas of land to them. He has also failed to point out any material on record to show that he was in fact cheated and induced to deliver the property in question.

12. It is not even the case of the petitioner that the respondents had made, altered or destroyed any valuable security or signed or sealed anything, which was capable of being converted into a valuable security.

13. Similarly, a perusal of the allegations in the complaint do not make out any offence under Section 467 of the IPC. For facility of reference, Section 467 of the IPC is reproduced hereinbelow-

“467. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

14. Thus, from a perusal of the above provisions, it is clear that for commission of an offence under Section 467 of the IPC, there has to be forgery of a document which purports to a valuable security, Will, etc. However, there is no material on record in the instant case to even

prima facie show that any of the documents as detailed in Section 467 of the IPC were forged.

15. Though the petitioner alleged that the sale deeds were executed on the basis of forged and fabricated documents, as thumb impressions of Parkash Kaur and signatures of Megh Singh in the application for NOC and the affidavits differed from that on the sale deeds, however, the Revisional Court has rightly observed that there was no evidence of any hand writing expert to substantiate the said fact, and hence, the Revisional Court did not err in any manner while rejecting this argument. It would also not be out of context to observe here that once Parkash Kaur and Megh Singh had not come forward to file any complaint alleging forgery of their thumb impressions and signatures respectively, the petitioner had no locus whatsoever and no concern with the same moreso, when he had failed to prove his ownership over 02 biswas of land. This Court concurs with the findings recorded by the Revisional Court that offence under Sections 467, 468 and 471 are not made out.

16. Still further, even if, for the sake of arguments, it is believed that Kartar Singh handed over possession of 02 biswas of land to the petitioner's father i.e. Ran Singh and respondent No.1-Dalel Singh, it would by itself not in any manner transfer the ownership in their favour particularly when no document to the said effect was executed and registered, in accordance with the provisions of law. Furthermore, as far as commission of offence under Section 211 of the IPC is concerned, there is no material at all to prima facie show the commission of an offence.

17. As a sequel to the above, this Court does not find any merit in the instant petition which deserves to be and is dismissed accordingly.

11.08.2023	(MANJARI NEHRU KAUL)
Vinay	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No