

CRM-M-34764-2023 (O&M)

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2023:PHHC:124448

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

SR. No.118

CRM-M-34764-2023 (O&M)

Date of decision:01.09.2023

Baljit Singh

...Petitioner

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Saurabh Bajaj, Advocate for the petitioner.

Mr. Mohinder Singh Joshi, Addl.A.G., Punjab.

Mr.Gopal Sharma, Advocate for respondent No.2.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash FIR No.0016 dated 12.01.2023 registered under Sections 406/420/120-B IPC at Police Station Zirakpur, SAS Nagar (Mohali) and all subsequent proceedings arising therefrom.

2. The FIR in the present case was got registered by Ranbir Singh S/o Ran Singh resident of House No.353/20, Hari Nagar, Narwana against Baljit Singh (petitioner herein), Rahul, Gurmeet Singh @ Lucky and Dinesh by alleging that he was a retired employee and was aged about 60 years. On 11.07.2022, his son received a telephonic call from Balram, who was a property dealer and told his son Amit about a property located in AKS-II Colony, Zirakpur (Punjab) and advised him to invest in the said property to

can good profit. Believing his words, the complainant and his son decided

to invest together in the said plot. After reaching the office of Balram, the complainant was introduced to Gurmeet @ Lucky and Dinesh, who also told the complainant that the plot belongs to Baljit Singh (petitioner) and he was interested in selling the said plot. On the next day, the complainant and his son Amit went to the office of the petitioner in Zirakpur along with Balram, Gurmeet @ Lucky and Dinesh. Petitioner-Baljit Singh was sitting there and after sometime Rahul joined them and petitioner disclosed that this plot belongs to his wife and he had the general power of attorney in his favor. He gave the description of the property as plot No. 113-A, situated in AKS-II Colony, Zirakpur and was measuring about 8 Marlas (256 sq. yards). He further stated that the plot was free from any dispute and no case was filed in any Court. On the asking of the complainant, Baljit Singh told Gurmeet alias Lucky and Dinesh to show them the plot and they took them to AKS-II Colony in Zirakpur and showed them the plot. On the next day, i.e. 13.07.2022, the complainant along with his son Amit and Balram went to the office of Baljit Singh, petitioner/accused and gave him the earnest money of Rs.10 lakhs and the proof of which was kept by Baljit Singh, seller/petitioner. Again on 15.07.2022, the complainant paid a sum of Rs.15 lakhs more to Baljit Singh and the total amount of Rs.25 lakhs was paid to Baljit Singh, petitioner by the complainant and his son. On the same day, i.e., on 15.07.2022, Baljit Singh executed an agreement to sell in favor of the complainant and it was specifically mentioned that a sum of Rs.25 lakhs had been received by him from the complainant. After few days, the complainant and his son heard that petitioner Baljit Singh used to sell fake properties and

pending against him. Later on, the complainant came to know that the property never existed at the place, which was shown to him. The complainant, his son Amit and Balram approached the Patwari in Tehsil Office and collected all the necessary documents related to their plot and were shocked to know that the property, regarding which the agreement to sell was executed, did not match with the Killa numbers of the property in AKS-II Colony, Zirakpur. In fact, the plot, which was shown to the complainant, was 250 sq. yards, but the plot in AKS-II Colony was measuring 300 sq. yards and the plot was 500-700 meters away from AKS-II Colony, Zirakpur. The complainant was in a state of shock after inspecting the record and requested petitioner-Baljit Singh to return their money or to cancel the agreement to sell. However, the petitioner refused to return the amount and rather threatened them with dire consequences. Even Balram talked to the petitioner, but he threatened them to face dire consequences. The complainant also found that there were many more victims, who were cheated by Baljit Singh. The complainant also annexed the relevant documents with the application and with all these broad allegations, the FIR was got registered by the complainant in the present case.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. In fact, earlier father-in-law of the petitioner was owner in possession of the plot measuring 8 Marlas 4 Sarsahi comprised in Khata No.456/508, Khasra No.54//24, out of 7 kanal 7 marla situated in village Bhabat, Tehsil Derabassi on the basis of sale deed

law, the plot was mutated in the name of his wife Narender Pal Kaur, (mother-in-law of the petitioner). Later on, Narender Pal Kaur transferred the said plot in the name of her daughter Zasmeen Kaur wife of the petitioner vide registered transfer deed dated 11.03.2022. The petitioner had annexed the copy of the transfer deed dated 11.03.2022 as well as the Jamabandi for the years 2017-2018 as Annexures P-4 and P-5. Thereafter, after Zasmeen Kaur executed a registered Power of Attorney dated 22.07.2022 (Annexure P-6) in the name of the petitioner and vide agreement to sell dated 15.07.2022, the petitioner being the power of attorney holder of his wife, agreed to sell the plot to the complainant on 15.07.2022. He further contends that even though, it has been shown in the agreement to sell that the complainant had paid a sum of Rs.25 lakhs as earnest money to the petitioner, but instead of paying the earnest money as stipulated in the agreement to sell, the complainant had paid Rs.75,000/- vide two UPI transactions bearing Nos.219674047264 and 219690981254 dated 15.07.2022 and rest of the amount was never paid by the complainant.

4. Learned counsel further contends that the wife of the petitioner was the true owner of the property and there was no dispute with regard to the ownership of the plot in question. However, FIR has been registered against the true owner of the plot and the petitioner, who is a Canadian Citizen as well, is being harassed by the complainant and his son. He further contends that the plot in question has been approved by the Municipal Committee, Dera Basi bearing plot No.13A, which shows that no fraud has been committed by the petitioner with the complainant. With these

question is liable to be quashed by this Court.

5. On an advance notice, learned State Counsel has appeared on behalf of the State of Punjab, and Mr. Gopal Sharma, Advocate has also appeared on behalf of respondent No. 2/complainant. Learned State Counsel submits that in the present case, the petitioner has not co-operated in the investigation and the investigation of the present case is at the nascent stage. In case the petitioner is aggrieved, he should have approached the local police in first instance, with the relevant documents. However, he did not co-operate with the investigation agency. Still further, during the course of investigation, the report from the concerned Patwari/Revenue officials has been taken and as per the said report, the plot of the petitioner, which was comprised in Khata No.453/465 & 535/549 Khasra No.54//20/1(4-9), 24 (7-7), 25/2 (3-10), Kitte 3 Total land 15 Kanal 16 Marla from which 305/11376 Share i.e. 0 Kanal 8 Marla 4 Sarsahi (Size 33' x 70' =256 square yard) is not situated in AKS-II Colony, Zirakpur. As per the report of Patwari, the said khasra numbers are part of Shivalik Vihar, Colony, Part-II, Zirakpur and no such land exists in AKS-II Colony, Zirakpur. Learned State counsel assisted by the learned counsel for the complainant-respondent No.2 submits that the petitioner had sold the plot in question to the complainant by falsely representing to him that Plot No.113-A was situated in AKS-II Colony, Zirakpur, whereas khasra numbers of AKS-II Colony, Zirakpur were different.

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

7. First of all, the petitioner has relied upon several documents (Annexures P-2 to P-8) and some of the documents have been disputed by the learned State counsel as well as the complainant. The law is well settled that disputed questions of fact can never be adjudicated by this Court, while exercising its extraordinary jurisdiction under Section 482 Cr.P.C. Still further, the documents, which are sought to be relied upon by the petitioner, can be proved only during the course of trial and such annexures can never be treated as exhibits of a trial. Moreover, while dealing with the proceedings before it under Section 482 Cr.P.C., this Court cannot conduct a mini trial and the petitioner is required to produce the aforesaid documents before the police, which can investigate the version put-forth by the petitioner. However, the petitioner has not joined the investigation and even the investigation in the present case has been hampered in absence of the co-operation by the petitioner.

8. Considering the above-said facts and circumstances of the case, coupled with the reasons aforementioned, the present petition is dismissed, being devoid of any merits.

(N.S. SHEKHAWAT)
JUDGE

01.09.2023
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Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO