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

CRM-M-41271-2021 (O&amp;M)

Date of decision: 03.08.2023

Gulzar Singh

...Petitioner

Vs.

Davinder Kaur and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Ranjit Saini, Advocate,  
For the petitioner.

Mr. DhruvDayal, Additional A.G. Punjab.

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**ARUN MONGA, J. (ORAL)****CRM-20420-2023**

Application is allowed, as prayed for.

Documents at Annexures P-6 to P-8 are taken on record, subject to  
all just exceptions.

**Main case**

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 19.08.2016 (Annexure P-1) passed by learned Judicial Magistrate First Class, Gurdaspur vide which complaint under Sections 420, 427, 463, 467, 468, 471 and 120-B IPC against the respondents was dismissed and order dated 21.08.2018 (Annexure P-4) passed by learned Additional Sessions Judge, Gurdaspur, whereby revision filed against the aforesaid order was also dismissed.

2. Brief facts of the case in hand, as recorded by learned trial Court in the impugned judgment, are reproduced as under:

*“The present complaint has been filed by the complainant on the facts that the killa no.97/1 (0-13), 100/2(1-14) of Khewat no.46, khatauni no. 180, H.B. No.171 situated near the village Abadi of village Ali Nangal and valuable land having its minimum price of 5,000/- per marla, which devolves to the complainant by way of Khangi Wand, of which the mutation of the land has been got entered in his name vide mutation no. 1301 of village Ali Nangal. It*

*is further stated that the complainant is already in possession of the land of killa no. 100/2 being owner. There is enmity between the complainant and accused and the accused entered into a conspiracy to harm the interest of the complainant deliberately, intentionally, knowing the facts that the complainant is owner of the land pertaining to killa no. 100/2 situated in the revenue estate of village Nangal, of which the Mutation of land has already been effected in his favour, created a forged fabricated the document in order to cheat, misappropriate and make undue loss to the complainant in connivance with the other accused and created the registered sale deed dated 28.6.2010. It is further submitted that Davinder Kaur widow of Gurwinder Singh and Harpreet Singh son of Gurwinder Singh accused executed the sale deed deposing himself as owner and accused Kanta Devi as a purchaser of which the accused no.1 and 2 signed the sale deed being Mushtri on her behalf, whereas Ajaib Singh and Tirath Ram Panch, village Ali Nangal attested the said sale deed before the Sub Registrar, Gurdaspur. This very fact came to know to the complainant on the day of demarcation of the land by the complainant on dated 17.3.2010, when the revenue authorities demarcated the land pertaining to killa no.100/2 and the revenue officials demarcated the land and declared that the accused no. 1 Kanta Devi is in illegal possession of land measuring 0-1 marlas and on being asking the accused No. 1 and 2 retaliated as a owner being purchaser from Davinder Kaur and Harpreet Singh accused. The accused knowing the facts that the complainant is owner of the land created the sale deed being genuine one which may be used as genuine one in order to harm the interest and property of the complainant, thereby played cheating and mischief and created valuable documents being genuine one and committed an offence under Sections 420/427/463/466/467/468/471 and 120-B IPC. The complainant approached to the police authorities and reported the entire matter to the police of police station Dorangla, but the police authorities did not lodge the report and linger on the matter, since the date of demarcation of the land and report thereof and yesterday finally refused to get the matter registered in the shape of First Information Report, hence this complaint.”*

3. Learned counsel for the petitioner submits that complaint was wrongly dismissed by Learned Judicial Magistrate First Class, Gurdaspur vide order dated 19.08.2016 (Annexure P-1) by holding that the Court does not find any truth in the allegations levelled by the complainant and his witnesses as no offence has been committed by the accused against the complainant. It was also wrongly held that dispute, if any, between the parties is of civil in nature. Aggrieved against the said order, petitioner filed a revision which was also dismissed vide order dated 21.08.2018 (Annexure P-4).

3.1. Learned counsel for petitioner further submits that both the Courts below wrongly concluded that no offence of forgery can be said to be committed

by respondent and that no prima facie offence punishable under sections 420, 427, 463, 467, 468, 471, 120-B is shown to be committed by respondent.

3.2 Learned counsel for the petitioner submits that learned Judicial Magistrate First Class while passing impugned order (Annexure P-1) dismissing the complaint has wrongly relied upon judgment passed in “*Md. Ibrahim and others Vs. State of Bihar and another*”<sup>1</sup>. He also relies on Apex Court’s judgment rendered in case titled “*Shivjee Singh Vs. Nagendra Tiwary and others*”<sup>2</sup>, in support of his arguments.

4. Arguments heard.

5. Order dated 21.08.2018 (Annexure P-4) passed by learned Additional Sessions Judge, Gurdaspur, assailed herein, is premised, *inter alia*, on the following reasoning:

“13. When property, which is alleged to be owned and possessed by complainant is comprising of Killa No. 97/1 (0-13), 100/2(1-14) then in that eventuality, the complainant would have produced revenue record on file for establishing himself to be owner in possession of the property in question. Even demarcation report alleged by complainant to be in his favour is not proved on file. Same is marked documents. Jamabandi placed on record for the year 2004-2005, which is not exhibited by complainant is showing the parties to be joint owner in possession of the property comprising of Killa No. 97/1 (0-13), 100/2(1-14) alongwith other property having different Killa numbers. In this eventuality even if respondent no. 1 Davinderkaur and respondent Harpreet Singh sold some specific property in favour of respondent no. 4 through sale deed Ex. C2, then as per law, that sale deed pertaining to the sale of some specific property will be considered as a sale of share.

14 Alongwith this learned trial court rightly held that by way of sale deed dated 28.06.2010 Ex. C2 rights of complainant can not be said to be effected. Hon'ble Apex Court in case titled as *Md Ibrahim and others Vs State of Bihar and another* 2010 (2) Cri LJ 2223 has categorically held that in case same person sells the property knowing that it does not belong to him it is the person defrauded i.e. purchaser who can complain but the third party who is not purchaser can not be said to be aggrieved in any manner.

15. So far as, allegations with regard to forgery are concerned, section 463 and 464 of Indian Penal Code deal with regard to the offence of forgery and false document.

16. After going through the above said provisions of law in the present case no offence of forgery can be said to be committed by respondent.

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<sup>1</sup> 2010 (2) Cri LJ 2223

<sup>2</sup> Law Finder Doc ID #211401

16. *This court has come to this conclusion that learned Trial Court has rightly come to this conclusion that no prima facie offence punishable under Sections 420/427/463/467/468/471/120-B is shown to be committed by respondent. Complaint filed by complainant is established to be rightly dismissed.*

17. *There is no illegality or perversity in the order in question calling for any interference by this court in its revisional jurisdiction. Hence, this revision stands dismissed.”*

6. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law.

6.1 As per pleaded case of the petitioner, the person cheated, if at all, is the buyer of the property, who has been sold the same allegedly by and at the behest of respondents and, therefore, it is for the buyer to proceed against the vendors, if at all, they are not the owners of the property.

6.2 To attract the offence of forgery of a document under section 465, it is a necessary to show that the document was/is false. Section 464 IPC shows that a person is said to make a false document, who dishonestly or fraudulently makes, signs or executes it with the intention of causing it to be believed that such document was made, signed or executed by a person by whom it was not made, signed or executed. From the complaint allegations, as they are, the offence of forgery ascribed to the respondents is not made out.

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

03.08.2023

vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No