

CRM-M-51299 of 2022

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

CRM-M-51299 of 2022
Reserved on: 09.01.2023
Date of Pronouncement: 24.01.2023

Jogi Ram

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Chander Shekhar, Advocate, for the petitioner.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 482 Cr.P.C. for setting aside order dated 06.06.2016 (Annexure P-1) passed by the Court of learned Additional Chief Judicial Magistrate, Kaithal, whereby respondents No.2 to 6 have been discharged in case FIR No.15 dated 27.01.2015 under Sections 420, 447, 506, 120-B, 192, 465, 467, 468, 471 IPC registered at Police Station Sadar Kaithal, District Kaithal and order dated 25.11.2019 (Annexure P-2) passed by the Court of learned Additional Sessions Judge, Kaithal, whereby revision petition filed by the petitioner against the aforesaid order of discharge, has been dismissed.

Brief facts of the case necessary for disposal of the present petition are that complainant Jogi Ram moved an application against 12 persons on the allegations that he is owner of a Bara measuring 1 kanal

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comprised in khasra no. 267. Accused namely Mange Ram, Satpal (since deceased) and Ram Bhool are in unauthorised possession of the said Bara for the last many years. The said fact came to the notice of complainant when he transferred the said land in favour of his children. Accused Mange Ram, Satpal (since deceased) and Ram Bool in collusion with other accused persons namely Desh Raj, Deva Ram (since deceased), Rampal, Krishan, Balwinder, Inder, Sandeep and Ram Kumar threatened the complainant to kill and said that they will not vacate the Bara of the complainant. When complainant made further inquires, he found that all the said 12 persons after entering into criminal conspiracy have taken possession of the Bara by cheating. It has been further averred in the complaint that complainant convened a number of panchayats but accused sought time. Thereafter, on 03.05.2014 all the accused persons after entering into criminal conspiracy gathered some respectables and their relatives who were in their favour and called the complainant. They brought a blank stamp paper valuing Rs.10/- in the name of complainant and a Revenue Stamp. They took thumb impressions of complainant on the said blank paper and revenue stamp. Two thumb impressions were also taken in the register of accused Vipin Taneja, Deed Writer. Since complainant was illiterate, he was informed that settlement has been effected that they will give Bara comprised in khasra no. 265 to the complainant. It was further averred that complainant never sold his Bara comprised in khasra no. 267 nor received any money. All the accused persons after obtaining thumb impressions of complainant on blank papers forged

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agreement to sell and receipt of Rs.8 lacs and started putting pressure on the complainant to get the sale deed executed and registered in their favour. When complainant came to know about the said forged document, he convened a Panchayat on 28.05.2014 in Brahman Dharamshala in which the President of Dharamshala and other respectables of the area took part. In the said Panchayat, accused admitted that no transaction of money took place. One Vinod Kumar who was arbitrator also gave a writing that no transaction of money took place in his presence. In this way, accused cheated the complainant. A prayer for taking legal action was made.

On the said complaint, FIR was registered. Statements of witnesses recorded. Relevant documents including impugned agreement to sell and receipt were taken into police possession. Upon completion of investigation, accused namely Mange Ram, Ram Bhool, Desh Raj, Rampal, Krishan, Balwinder, Inder, Sandeep were challaned.

The trial Court after appreciation of evidence on record, framed charges against three persons, namely, Mange Ram, Ram Bhool and Desh Raj, however, respondents No.2 to 6 were discharged vide order dated 06.06.2016.

Aggrieved against the order of the trial Court, petitioner preferred Criminal Revision No.45 of 2016 (against discharge of accused) and Mange Ram, Ram Bool and Des Raj preferred Criminal Revision No.RBT-157 of 2019 (against framing of charges), which were dismissed vide impugned order dated 25.11.2019 by the Court of learned Additional Sessions Judge, Kaithal.

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Learned counsel for the petitioner contended that the findings recorded by the Courts below are totally erroneous and perverse as the police has found sufficient material against all the accused persons, which is sufficient to frame charges against them and there is nothing on record to disbelieve the material and evidence collected by the police. He further submitted that the trial Court was only to see whether *prima facie* case is made out against the accused persons or not and the Court cannot go into the facts as to whether the trial would result into conviction of the accused persons or not.

I have heard learned counsel for the petitioner and perused the record.

The trial Court while discharging respondents No.2 to 6 has recorded as under: -

“Accused namely Satpal, Deva Ram and Ram Kumar are dead. Now, eight accused are present. The present FIR has been registered on the basis that impugned agreement to sell allegedly executed by complainant Jogi Ram in favour of five accused persons namely Desh Raj, Deva Ram (since deceased), Mange Ram, Satpal (since deceased) and Ram Bhool is a forged and fabricated document never executed by the complainant as his thumb impressions were taken on blank papers. A perusal of the said agreement shows that it is attested by one Zile Singh and Om Parkash, but no allegations have been levelled by the complainant against the said two persons. No specific allegations against accused Rampal, Krishan, Balwinder, Inder and Sandeep have been levelled except that they entered into criminal conspiracy with the remaining accused as mentioned in para nos.3,4 and 5 of the

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complaint. Admittedly, said persons were not attesting witnesses of the agreement nor they are beneficiaries under the same. Section 120-B of the IPC provides punishment for criminal conspiracy and Section 120-A of the IPC defines criminal conspiracy. To bring home the charge of conspiracy within the ambit of Section 120-B of IPC, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. Simple levelling of bald allegations of criminal conspiracy is not sufficient. In the present case, accused Rampal is son of Deva Ram (since deceased), accused Krishan and Balwinder are sons of accused Desh Raj whereas accused Inder and Sandeep are sons of accused Mange Ram. Admittedly, as per the case of complainant, Mange Ram, Desh Raj and Deva Ram (since deceased) were the beneficiary of alleged agreement to sell alongwith Satpal (since deceased) and Ram Bhool. Merely because the above named accused are sons of said Mange Ram, Deva Ram and Desh Raj do not make them liable for the acts of their father. Now a days, it has become a tendency to rope in all the members of the family when a dispute arose.

From perusal of report submitted under Section 173 Cr.P.C and material/document, no ground is made out, what to say of prima-facie ground to frame charge against accused namely Rampal, Krishan, Balwinder, Inder and Sandeep.

However, a prima-facie case to frame charge under Sections 447, 465, 467 and 471 of IPC is made out against accused Mange Ram, Ram Bhool and Desh Raj.

Let, charge under Sections 447, 465, 467 and 471 of IPC against accused Mange Ram, Ram Bhool and Desh Raj be framed. However, accused namely Rampal, Krishan, Balinder, Inder and Sandeep are discharged.”

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The findings recorded by the Revisional Court vide order dated 25.11.2019 are reproduced as under: -

“12. When the above order passed by learned trial Magistrate is carefully appraised, it is self evident that learned trial Magistrate paid attention to all relevant features connected with the allegations made by complainant Jogi Ram and to the material present in the challan. Learned counsel for revisionist-complainant of Revision-II failed to place anything on lower Court’s record, which could prima-facie satisfy the Court, about involvement of respondents of Revision-II, in any kind of conspiracy with the revisionists-accused of Revision-I. Any overt act or some specific allegation has not been made against the respondents of Revision-II. On the contrary, learned Civil Court has also found the agreement dated 03.05.2014, to be legally enforceable. So, the preliminary findings of learned trial Magistrate stand ratified by the findings arrived at by learned Civil Court concerned, vide a judgment dated 27.02.2019 (supra). So, this Court does not find any illegality or infirmity in the impugned order dated 06.06.2016 (supra) challenged in Revision-II here.

x x x x x

14. In view of whole of the above discussion, both the revisions here are dismissed. One copy of this judgment be placed in the case file of Revision-II also. Lower Court’s record, along with a copy of this judgment be also sent back to the learned Trial Court, to be taken up on the date fixed (i.e. 09.12.2019) for further proceedings according to law.

Revision file be consigned to the Records.”

Nothing has been shown by learned counsel for the petitioner on the record which could *prima facie* show the involvement

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of respondents No.2 to 6 or they were beneficiaries of the alleged agreement to sell. Therefore, this Court does not find any illegality or perversity in the impugned order dated 06.06.2016 passed by the trial Court and order dated 25.11.2019 passed by the Revisional Court.

Finding no merit in the present petition, the same is dismissed.

24.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No