

CRM-M-36675-2016 (O&M)

245 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36675-2016 (O&M)
Date of decision: 13.03.2024

Jitender Kumar

...Petitioner

Versus

Basant Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tushar, Advocate
for Mr. Sanjiv Gupta, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court by way of filing the present petition under Section 482 Code of Criminal Procedure, 1973 (hereinafter Cr.P.C., for brevity) for quashing of the impugned order dated 21.05.2015 (Annexure P-4), passed by learned Chief Judicial Magistrate, Narnaul as well as order dated 01.04.2016 (Annexure P-6) passed by the learned Sessions Judge, Narnaul whereby revision petition filed against the aforementioned order dated 21.05.2015 has been dismissed, whereby the criminal complaint filed under Sections 420, 467, 468, 471, 120-B of IPC before the learned Chief Judicial Magistrate, Narnaul was dismissed.

2. The facts of the present case, tersely put, are that the respondent-accused purchased land from one Raghbir Singh vide registered sale deed, bearing no. 1899 dated 2.12.1986. The total area of the land was 414 sq. yards. However, the respondent-accused in collusion with Raghbir Singh got the area of the land mentioned as 784.12 sq. yards in the sale deed, despite

full knowledge and notice of the fact that the total area of the land was only 414 sq. yards and not 784.12 sq. yards. As a result, the respondent – accused committed forgery with an intention to encroach upon the government land. As per the assertions in the complaint, it has also been alleged that the dimensions of the said land have also been wrongly written in the sale deed. The respondent – accused got the sale deed executed and registered with the intention to commit forgery and cheating against the custodian government and therefore he was liable to face trial for offences punishable under Sections 426, 467, 468, 471, 120-B of IPC.

3. Learned counsel for the petitioner *inter alia* contends that the complaint has been wrongfully dismissed as the offences of forgery and fraud were clearly established on the record. The sale deed duly signed and executed by the respondent-accused and Raghbir Singh, who worked in Custodian Department at the time, is self-explanatory and it is patently discernible that the deed has been forged. It is apparent that as against the area measuring 414 sq. yards, which is the rightful measurement, an area of 784.12 sq. yards has been stated. Clearly, the respondent had the motive to encroach upon land owned by the government. Thus, all the necessary ingredients to prove offences under sections 420, 467, 471, 120-B of IPC undoubtedly exist. The complainant examined as many as four witnesses to reinforce that a prima facie case is made out against the respondent, however, the findings of the learned Courts below is against the evidence available on file.

4. Having heard the learned counsel for the petitioner and after perusing the record of the case, it transpires that Raghbir Singh (now deceased) purchased land vide M.E.P. No. 706, 707/2 and 709 from the Custodian Department and the petitioner placed on record three sale

18.08.1960 (Ex. PW1/C). According to the complaint, the total area of all the three sale certificates amounted to 414 sq. yards, however, Raghbir sold land measuring 784.12 square yards vide sale deed no. 1899 dated 02.12.1986 (Ex. PW1/D) to the respondent. It is pertinent to mention that a perusal of the three sale certificates would reveal that nowhere is it mentioned that the total area of the land is 414 sq. yards. Further, even as per the testimony of PW-4 who worked as a clerk in the office of the Tehsildar, Narnaul, namely, Mahesh Kumar, while the authenticity of the three sale certificates have been duly proven, he has nowhere stated that the total area of the property was 414 sq. yards.

5. Moreover, it is settled law that if any other piece of land is mentioned in the sale deed of which the seller is not the owner, transfer of such land would be of no consequence. The sale deed, bearing no. 1899 dated 2.12.1986 did not confer any additional right or title to the respondent. The learned Courts below rightly observed that no fraud has been committed by the respondent and if any, then it has been committed by Raghbir Singh on the respondent. Lastly, the sale deed was executed in the 1986, whereas the complaint was filed in 2012 i.e., after a lapse of 26 years. Delay in setting the law into motion is normally viewed by the courts with suspicion as it undermines the integrity of the cause of action. Hence, it becomes vital for the complainant to satisfactorily and cogently explain the delay. In the case at hand, however, no explanation was put forth by the petitioner to satisfactorily explain the delay.

6. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned lower Appellate

Court or the learned Trial Court which warrants interference by this Court. As

such, there is no merit in the present petition and the same is hereby dismissed.

13.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No