

2024:PHHC:113318



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

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**CRM M-37034 of 2017
Date of Decision: 31.07.2024**

Preet Jot Kaur ...Petitioner
Versus
Hardeep Singh and another ... Respondents

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

Present : Mr. Namit Gautam, Advocate, for the petitioner.

Mr. Yogesh Goyal, Advocate, for respondent No. 1.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to set aside the impugned judgment dated 28.08.2017 (Annexure P-10) passed by the Court of Additional Sessions Judge, Ludhiana, whereby, the revision petition filed by the petitioner was ordered to be dismissed and the impugned order dated 11.05.2017 (Annexure P-8) passed by the Court of Judicial Magistrate 1st Class, Ludhiana, whereby, the application under Section 91 Cr.P.C. filed by the petitioner was also ordered to be dismissed.
2. Brief facts of the case are that the complainant moved an application on 29.07.2008 by alleging that the accused hatched a criminal conspiracy to cheat the complainant by forging the signatures of her husband Inder Mohan Singh to fabricate the agreement to sell

dated 30.04.2008 regarding the sale of 1200 square yards of land. On the basis of the said complaint, an inquiry was held and ultimately FIR No. 85 dated 10.04.2009 under Sections 420, 467, 468, 471 and 120-B of IPC, Police Station Station Division No. 5, Ludhiana, was ordered to be registered against the accused/respondent in the present case.

3. After completion of the investigation, final report under Section 173 Cr.P.C. was presented against the accused/respondent. The trial Court also found that there was sufficient evidence to frame charge under Sections 120-B, 467, 468, 471 and 420 IPC against the respondents and they were charge sheeted accordingly.

4. After framing of charge, the statements of various witnesses were recorded and when the case was pending for defence evidence, the prosecution moved an application under Section 311 Cr.P.C. to summon Gurdial Singh, DSP, as an additional witness, who had held the inquiry in the present case. The said application was ultimately allowed and Gurdial Singh, DSP, Inquiry Officer, was examined as PW6. Even, the inquiry report dated 07.04.2009 was exhibited as Ex.PW6/A by PW6 Gurdial Singh, DSP. However, while appearing as PW6, Gurdial Singh, DSP, stated that all the statements recorded by him at the time of conducting the inquiry were attached with the police file. Consequently, an application under Section 91 Cr.P.C. was moved by the petitioner for summoning the concerned

police officers/investigating officer to produce the statements of witnesses recorded during the inquiry.

5. Learned counsel for the petitioner vehemently argues that an inquiry was conducted by PW6 Gurdial Singh, DSP and on the basis of the inquiry report, the FIR was ordered to be registered against the respondents/accused. During the course of inquiry, the statements of various witnesses were recorded by the Investigating Officer and the report was prepared to register the FIR, on the strength of the said statements. However, the said statements were placed on the police file and, thus, statements of the witnesses were to be produced on the judicial file.

6. I have heard the learned counsel for the petitioner at length and perused the case file carefully with his assistance.

7. In the present case, the trial Court had summoned Gurdial Singh, DSP, for recording his statement as additional witness of the prosecution. However, it was discovered that the inquiry report dated 07.04.2009 was not on judicial file. Consequently, the inquiry officer was summoned and during his cross-examination PW6 Gurdial Singh DSP proved the inquiry report dated 07.04.2009 as PW6/A. During the course of inquiry, the statements of Preetjot Kaur PW1, complainant, Upinder Singh PW3 and Nathu Singh PW5 were recorded from the side of the complainant, whereas, the statements of certain accused were recorded from the opposite side. During the course of investigation, the Investigating Officer again examined the

same witnesses of the prosecution. These witnesses of the prosecution appeared during the course of trial Preetjot Kaur complainant as PW1, Upinder Singh as PW3 and Nathu Singh as PW5. Now, the petitioner wanted to place on record the statements of the same three witnesses, which were recorded by the Inquiry Officer, i.e., PW6 Gurdial Singh, DSP, during the course of inquiry. In fact, first of all, the inquiry conducted by PW6 Gurdial Singh had no legal sanctity as the police can never conduct an inquiry prior to the registration of the FIR and such inquiry is in violation of the law laid down by the Hon'ble Supreme Court in the matter of ***Lalita Kumari Vs. Govt. of U.P. and others, 2013(4) R.C.R.(Criminal) 979; 2014 AIR (Supreme Court) 187.***

8. Thus, the inquiry proceedings conducted by PW6 Gurdial Singh DSP had no legal sanctity and the trial Court could only take into consideration the investigation, which was conducted by the Investigating Officer after registration of the FIR. Still further, the statements of three witnesses, i.e., Preetjot Kaur PW1, complainant, Upinder Singh PW3 and Nathu Singh PW5, which were recorded during the course of investigation, are also part of the judicial file and now they had also appeared as prosecution witnesses before the trial Court. Consequently, the production of the statements of three witnesses, which were recorded during the course of inquiry, would not serve any purpose and the application filed by the present

petitioner is apparently frivolous and vexatious. Thus, the petition is ordered to be dismissed.

31.07.2024.
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No