

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1285-2014 (O&M)
Reserved on 18.07.2024
Pronounced on 15.10.2024

Jasjit Singh @ Jagjit Singh

... Petitioner

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Nandita Verma, Advocate for the petitioner

Mr. SS Pannu, DAG Haryana

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the judgment dated 11.03.2014 passed by Addl. Sessions Judge, Panchkula and the judgment dated 18.04.2013 passed by JMIC, Panchkula vide which in the complaint under Section 420/120-B IPC filed by Sarjivan Lal Sehgal, the petitioner has been convicted under Section 420 IPC and Section 120-B IPC and sentenced him to undergo RI for 2 years and to pay fine of Rs.10,000/- and in default thereof to further undergo RI for two months.

(2). Learned trial court based its judgment on the ground that the complainant got examined halqa patwari who, on the basis of summoned record, testified that no land was ever standing in the name of the accused on the date of execution of the agreement to sell for which purpose, the petitioner also made an endorsement on the agreement to sell that Gurdev Singh (accused No.1) was fully competent to sell the disputed property measuring 100 acres in village Achalpur, Tehsil Garhshanker, District Hoshiarpur wherein the complainant even paid earnest money of Rs.4,30,000/- but when the accused

persons failed to execute the sale deed, the complainant got issued the jamabandi and found that there was no ownership of the accused persons in respect of the land in dispute.

(3). It is also noteworthy that before the trial court, the petitioner-accused also placed reliance upon the documents Ex.DA to DG on the basis of which it was insisted upon by the petitioner and the accused person that they acted upon another agreement to sell with on Ravinder Babbar in respect whereof, they failed to examine any witness in their defence and by this very fact, it was revealed that at the time of execution of agreement to sell, the accused persons were not the owner of the disputed property.

(4). The courts below thus came to the conclusion that since the accused including the petitioner had no title over the disputed property then their act of accepting earnest money tantamount to cheating for wrongful gain to them and wrongful loss to the complainant as defined under Section 415 & 420 IPC.

(5). At this stage, learned counsel for the petitioner argued that the statement or endorsement could not be treated as inducement to the complainant to execute an agreement to sell in view of the principle of caveat emptor and in fact at the very inception of agreement there was no inducement on the part of the petitioner. Further, it is urged that the prosecution failed to prove the allegation of cheating upon the petitioner as the consideration amount was admittedly not received by the petitioner.

(6). The courts below have rightly held that notwithstanding the ultimate purpose of agreement, the intention of the parties is to be seen at the time of execution of the agreement and not thereafter and as such, since

admittedly, the petitioner and co-accused were not having any right or title over the disputed piece of land on the date of executive of the sale deed, they cannot be permitted to wriggle out or escape from the criminal liability by pleading that the no offence of cheating is made out as the complainant was full aware of the status of the disputed land coupled with the fact that the impugned agreement was executed only for the purpose of sharing profits and moreover, the process of sharing profits would arise only when the agreement was free from deception and misrepresentation. It has been rightly observed by the courts below that no person would part with the consideration despite knowledge that the other party has no title to the property.

(7). It thus culls out that the documents relied upon by the petitioner (Ex.PB to DX) are post-transaction and the fact of the matter is that on 17.11.2004, when the agreement to sell was executed, the accused persons including the petitioner did not have any right, title or interest in the disputed property what to talk of entering into any agreement to sell. Such act of conspiracy of the petitioner with Gurdev Singh clearly suggests the intention of the petitioner was to deceive and cheat the complainant from the very inception.

(8). In view of the above discussion, this Court does not find any material illegality or infirmity in the judgments and orders passed by the courts below.

(9). Dismissed.

15.10.2024

V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No