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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 22, 2024

JAGTAR SINGH SANGHA -PETITIONER

V/S

STATE OF PUNJAB -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

Mr. Abhinav Gupta, Advocate
for the complainant.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.163 dated 27.07.2023, under Sections 380, 448, 451, 427, 34 of the IPC, registered at P.S. Navi Baradari, District Jalandhar.

ALLEGATIONS AGAINST THE PETITIONER

2. The present FIR derives its genesis from the complaint made by a sexagenarian N.R.I., namely, Surjit Kaur (hereinafter referred to as the ‘complainant’). Succinctly stated, the allegations levelled in the FIR against the petitioner are that, he allured the complainant and took ₹ 20,00,000/- from her for renovation of the property in dispute. However, when the complainant demanded possession of the property in dispute, he refused to vacate it, rather extended threats and demanded money for vacating it. The relevant extract of

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the complaint (supra), as narrated in paragraph No.4 of the order dated 11.08.2023, whereby, the learned Judge, Special Court, Jalandhar, has declined bail to the petitioner, is extracted hereinafter:-

“4. Brief facts of the present case are that instant FIR was got registered against the present applicant/accused as well as against his wife (non applicant) on the statement/complaint of Surjit Kaur w/o late Jasbir Singh, whereby, she submitted that she and her family is N.R.I and they are owner of property i.e. Kothi No.54, Defense Colony Bahia Niwas (Max Villa) Jalandhar and year and a half ago, the above mentioned person called them abroad and told them that their house has been vandalized by an unknown person, to which her daughter said to him to get their house fixed again, on which accused Jagatar Singh Sangha, taking advantage of his acquaintance with her husband, demanded ₹ 20,00,000/- and they sent the above mentioned amount to the accused -Jagatar Singh Sangha on which he did not give them any details of the amount used on the repair and whenever they asked for the details, he continued to hesitate and by this he took them into confidence and said that he will start living in their house with his family, so that again no unknown person breaks the house. Upon this they give their house to him to take care of the house without charging any rent and now when they came back to India, they requested him to vacate their house and they have to sell it on which the accused Jagatar Singh Sangha and his wife started fighting with them and in return demanded Rs.9,00,000/- and that accused Jagatar Singh Sangha intentionally changed the name plate outside their house from Bahiya Niwas to Max Vila. When they asked, they pushed them out of their house and threatened them.”

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, has made the following submissions:-

(i) Despite pendency of a civil suit concerning the property in dispute, yet the complainant, in connivance with senior police officials

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and by camouflaging a civil dispute as a criminal offence, wrongly and illegally got registered the present FIR;

(ii) The petitioner's possession over the property in dispute has been permissive, inasmuch as, only after obtaining consent of the complainant/her daughter for renovation of the property in dispute, the petitioner undertook the renovation work by spending approx. ₹ 60,00,000/ 65,00,000/- thereon. Therefore, until and unless the petitioner receives back the entire amount spent by him on renovation, the complainant cannot force him to vacate the property in question, under the garb of the present FIR;

(iii) Except Section 380 of the IPC, all other offences embodied in the present FIR are bailable and triable by Judicial Magistrate 1st Class;

(iv) Petitioner, who has clean antecedents, has undergone incarceration of approx. 10 months;

ANALYSIS

4. This Court has heard the arguments advanced by the learned counsel for the parties and has perused the entire available record. A studied perusal of the record reveals that, since the petitioner also used to reside in England, therefore, the complainant was acquainted with him and accordingly, the complainant's daughter contacted the petitioner and requested him to take care of the property in question and to get it renovated. Not only this, as per demand of the petitioner, a sum of ₹ 21,00,000/- was also transferred from England to the bank account of the petitioner in India, on different occasions.

5. However, despite making payment of ₹ 21,00,000/-, when the

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complainant returned to India, the petitioner did not hand over the keys of the property in dispute to her, rather denied her entry and extended threats. The petitioner demanded an amount of ₹ 44,00,000/- from the complainant to deliver possession of the property in question. Not only this, the articles lying in the property in question were also misappropriated by the petitioner.

6. Moreover, what surfaced during inquiry, as became conducted before registration of the present FIR, is that, there were whatsapp chats between the complainant's daughter Inderjit Kaur and the petitioner, wherein, the petitioner can be seen assuring the complainant's daughter that he will hand over the keys of the property in question to her maternal grandfather/complainant's father. The relevant extract of the whatsapp chats is extracted hereinafter:-

"Applicant's daughter Inderjit: Hi chacha could you please give the keys this week to my Nana.

Jagtar Singh @ Laddi: O.K., we move this week end and give keys early next week.

Applicant's daughter Inderjit: Hi Chacha how are you. Will you be giving the keys today.

Jagtar Singh @ Laddi: Wednesday or Thursday nearly done.

Applicant's daughter: Hi Chacha nana will come over to the house tomorrow. Will the keys be ready.

Jagtar Singh @ Laddi: Please send them Thursday or ring them.

Applicant's daughter Inderjit: Hi Chacha My nana is coming tomorrow to pick up the keys and see the house, he will come in the morning.

Jagtar Singh @ Laddi: I spoke to him just now and fix the time.

Applicant's daughter Inderjit: O.K. Thank you, Nana will come to the house on Friday to come and see it. And he will get the keys there he said.

Jagtar Singh @ Laddi: Wait please, ring you back today.

Applicant's daughter Inderjit: Hi Chacha Hope you are well. What time



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are you giving the keys today.”

7. However, despite assurances, the petitioner did not hand over the keys of the property in question to the person concerned. Noticeably, the devious efforts of the petitioner did not pause here, inasmuch as, in furtherance of his evil design, he even filed a suit for permanent injunction before the learned Civil Judge concerned, however, by taking an altogether different stand therein that, he has been a tenant over the property in dispute since June 2021, for a rent of ₹ 20,000/- per month. The application filed by the petitioner, under Order 39 Rules 1 & 2 read with Section 151 of the CPC, for grant of ad-interim injunction, was dismissed by the learned Civil Judge concerned, vide order dated 25.08.2023. This dismissal order has been anchored upon an observation that, there is nothing available on record either to substantiate the tenancy claim of the petitioner, or, to substantiate his claim regarding spending ₹ 60,00,000/ 65,00,000/- on renovation of the property in dispute. The relevant extract of the order dated 25.08.2023, copy whereof has been placed on record by the learned counsel for the complainant, during the course of arguments, is reproduced hereinafter:-

*“6. The Jamabandi for the year 2009-10 is on record. Further, the copy of the sale deed dated 27.12.1995 is on record. As per the Jamabandi Jasvir Singh and Surjit Kaur are shown as co-owner of the suit property. As per the sale deed the property is shown to be registered in the name of Jasvir Singh and Surjit Kaur. **It is the case of the plaintiff that the plaintiff is a tenant in the suit property. However, the plaintiff has failed to place on record any document whatsoever showing the existence of the tenancy in favour of the plaintiff. The plaintiff has failed to show if the plaintiff ever made payment of rent either to the defendant or to the son of the defendant. The plaintiff claims to have spent ₹ 65 lacs on the renovation of the house but the plaintiff***



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has not placed on record the corresponding documents to show the expenditure of such a magnitude incurred on the renovation. The plaintiff has relied upon certain photographs, copy of the electricity bills, water sewerage bills and the plaintiff claims to be in legal possession over the suit property on the basis of the said documents. I am of the considered opinion that the possession of the plaintiff over the suit property cannot be considered to be legal merely on the basis of the said documents. It is the case of the defendants that the plaintiff has illegally occupied the property on the pretext of getting the same renovated. The transfer of the money from abroad on the renovation of the house is an admitted fact.”

The order dated 25.08.2023 is ordered to be taken on record as ‘Mark A’.

8. Apart from the above, this Court had, on 29.02.2024, posed a specific query to the learned counsel for the petitioner as to whether the petitioner is ready to vacate his possession over the property in dispute, which admittedly belongs to the complainant, and to surrender its keys, whereupon, the learned counsel for the petitioner sought some time to get the relevant instructions from petitioner. Today again, this Court reiterated its above query, whereupon, the learned counsel for the petitioner, at the behest of his client, returned a response in negative. Despite making refusal to vacate possession and to surrender keys of the property in dispute, the learned counsel for the petitioner insisted for grant of bail, merely on the ground that, the petitioner has suffered sufficient incarceration and it is a Magisterial trial.

REASONS FOR DISMISSING THE INSTANT PETITION

9. The principal reason for drawing this inference generates from the factum that: (i) despite the petitioner remaining unsuccessful before the learned civil court concerned, wherein he adopted an altogether different stand



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of tenancy, thus to reap the desired results in respect of the property in dispute, which admittedly belongs to the complainant; and (ii) despite receiving an amount of ₹ 21,00,000/- from the complainant for renovation of the property in question; the petitioner has illegally occupied the property in question, without any legal right or title.

10. Moreover, owing to there being absolute dearth of any cogent material/evidence on record, the tenancy claim of the petitioner, as also his claim regarding expenditure of ₹ 60,00,000/ 65,00,000/- on renovation of the property in dispute, has already been declined by the learned Civil Judge concerned, vide order dated 25.08.2023.

11. Furthermore, despite the petitioner being afforded two consecutive opportunities, he is reluctant to hand over the keys of the property in dispute to the complainant, rather is adamant to retain his possession over it, until his money, as allegedly spent on renovation, is returned to him. This act of the petitioner has resulted in the complainant, despite her being admittedly the owner of the property in dispute, becoming deprived to use and occupy it.

12. For all the reasons (supra), this Court is not inclined to, merely on the ground of period of his incarceration, grant the relief of regular bail to the petitioner. Consequently, the instant petition is **dismissed**.

13. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 22, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No