
(1992) 12 P&H CK 0044

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 6710-M of 1992

Jagjit Singh and ors.

APPELLANT

Vs

State of Haryana and ors.

RESPONDENT

Date of Decision : 09-12-1992

Acts Referred:

Citation : (1993) 3 RCR(Criminal) 329

Hon'ble Judges : S.K.Jain, J

Advocate : J.S. Yadav, Harbhagwan Singh, P.S. Sullar, G.S. Bawa, Advocates for appearing Parties

Judgement

S.K. Jain, J.

1. Through this petition under Section 482 of the Code of Criminal Procedure Jagjit Singh, Vijay Kumar and Sanjay Kumar have sought the stay of criminal proceedings launched by institution of FIR No. 167 dated 961992 under Sections 419/468/471/506 of the Indian Penal Code, Police Station Sadar, Sirsa (Annexure P4) pending in the Court of Illaqa Magistrate, Sirsa, during the pendency of Civil Suit (Annexure P1) pending in the Court of Sub Judge Ist Class, Sirsa.

2. Short facts of this case are that Som Nath complainant respondent No. 2 entered into an agreement of sale of 80 kanals 18 Marlas of agricultural land situated in the area of village Nattar, Tehsil and District Sirsa with jagjit Singh first petitioner who received Rs. 1,20,000/ as earnest money and delivered physical possession of the said land to him in part performance of the contract. The sale deed had got to be executed and registered on November 15, 1992. Second respondent Som Nath having started negotiations to transfer the said land to other persons Jagjit Singh first petitioner instituted a suit (Annexure P1) for a decree of permanent injunction restraining him from alienating the said land to any other person. On an application moved by him adinterim injunction (Annexure P2) was granted. The suit was contested by Som Nath respondent. He filed written statement (Annexure P3). The relief of adinterim injunction was extended till 581992, thereupon, Som Nath instituted FIR No. 167 dated 961992

under Sections 419/468/471/506 of the Indian Penal Code in Police Station Sadar, Sirsa (Annexure P4).

3. Respondents have been served and written statement has been filed.

4. Learned counsel for the parties have been heard.

5. It is not disputed that criminal offence as well as civil wrong is constituted by the same set of facts. There is also no dispute regarding the legal position that both civil as well as criminal proceedings can continue side by side from the same set of facts giving rise to cause of action under the civil law as also under the criminal. There is also no dispute that the judgment of the Civil Court between the parties on the same controversy is binding on the criminal court. Admittedly, the decision of the Civil Court which might be given in Civil suit (Annexure P1) shall directly involve the determination of the controversy whether agreement of sale dated 16/2/1992 is genuine or forged one. The gravamen of the charge of the offences under Sections 409/468/471 of the Indian Penal Code on the criminal side is based on the forging of the agreement of sale by the accused petitioners.

6. Admittedly, as per allegations in the first information report the above referred offences are ex facie made out if the agreement is proved to be forged. Thus, the genuineness or forgery of the agreement is a matter of evidence to be gone into by the trial Court. In holding the above view I am fortified by the ratio laid down in *Vijay Kumar and anr. v. State of Punjab and ors.*, 1991(2) Recent Criminal Reports 220 .

7. However, keeping in view that the judgment of the civil Court is binding on the Criminal Court regarding the genuineness or forgery of the agreement, it is directed that the final order by the trial court in the case in hand shall either be passed simultaneously with the civil suit or after the decision of the Civil Court in Civil Suit (Annexure P1). It is also directed that criminal case (FIR Annexure P4) as well as the civil suit (Annexure P1) be tried by same Judge, exercising Civil and Criminal powers.

8. For the reasons recorded above, except for above referred directions, there is no merit in this petition which is ordered to be disposed of accordingly.