
(2012) 03 SHI CK 0413
In the High Court Of Himachal Pradesh
Case No : Criminal Revision No. 224 of 2011

M. S. Jamwal, IAS (Retired)	Vs	APPELLANT
Om Parkash Ex-Patwari P.C. Bahadpur and Others		RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 34, 420, 468

Citation : (2012) 03 SHI CK 0413

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Advocate : Vinay Kuthiala, with Mr. Diwan Singh, for the Appellant; Ashok Chaudhary, Advocate, and Mr. Ruma Kaushik, Addl. A.G. with Mr. J.S. Rana, Asstt. A.G., for the Respondent

Judgement

Kuldip Singh, Judge

1. This revision has been directed against the order dated 21.5.2011 passed by Judicial Magistrate 1st Class, Jawali in private Complaint No. 322-IV/2010, prayer has been made for setting aside the order dated 21.5.2011. The facts, in brief, are that petitioner filed complaint against the respondents for offences punishable under Sections 420, 468 read with Section 34 IPC. It has been alleged that respondents No. 1 to 5 had conspired and cheated the mother of the petitioner and also dishonestly persuaded the petitioner to sign as a witness to the sale deeds executed by the General Power of Attorney holder of the mother of the petitioner in favour of respondents No. 2, 3 and 4 on 27.8.2004.

2. It has been alleged that mother of the petitioner is an extremely aged woman, asked the petitioner to accompany her son and General Power of Attorney holder Ranvir Singh as he was to execute two sale deeds in favour of respondents No. 2 to 4 in respect of an area measuring 76 Kanals and 56 Kanals respectively at Mauja Bahadpur, Tehsil Fatehpur.

3. The petitioner found that the papers had been prepared by one property

dealer and the jamabandi issued by respondent No. 1 described the area 76 Kanals of land as 3-88-38 hectares and area 56 Kanals as 2-86-19 hectares. The respondent No. 5 was Tehsildar, asked the petitioner to sign sale deeds as witness. He was told that sale deeds were being executed in respect of 76 Kanals and 56 Kanals of land. The petitioner did not doubt the bonafides of the statements of the respondents No. 1 to 5 after looking the figures mentioned in the jamabandi.

4. The petitioner and his mother after the execution of the sale deeds came to know that respondents No. 2 to 4 had been put in possession of 100.97 Kanals of land and 74.40 Kanals of land respectively by respondent No. 1 after giving demarcation. The petitioner requested the Deputy Commissioner, Kangra to direct the Tehsildar, Fatehpur to examine the record and to call for a report since the petitioner believed that purchasers had taken possession of more land than they had purchased. The respondent No. 1 submitted a vague reply. The petitioner made an application before the Sub Registrar for cancellation of the sale deeds, which was dismissed in default.

5. In the year, 2010 the General Power of Attorney of the mother of the petitioner sold another piece of land measuring 80.18 Kanals to one Smt. Nirmala Devi and in this case also the area of 4-13-51 Hectares of land was shown in the jamabandi as equal to 80.18 Kanals. However, while handing over possession and while demarcating this land, the purchasers were put in possession of 111.27 Kanals of land, but when petitioner protested against the same, he learnt that area of 4-13-51 Hectares of land actually measured 111.27 Kanals according to the conversion table. The petitioner at that time became aware of the modus-operandi of respondents No. 1 to 5 whereby they had manipulated the revenue record deliberately to cheat and deprive innocent sellers. The respondents No. 1 to 5 had conspired to cheat the petitioner's mother and to grab excess land.

6. The petitioner realised that respondents No. 1 to 5 had deliberately cheated him by mentioning the area to be sold both in Hectares as well as in Kanals in the jamabandi and held out to the petitioner and his mother that an area of 76 Kanals and 56 Kanals respectively only was being sold. The petitioner was not conversant with the conversion table from Hectares into Kanals, there was no reason to doubt the statement of accused as well as the official record i.e. jamabandi, the petitioner appended his signatures on the sale deeds as a witness.

7. In the jamabandi issued by respondent No. 1, the area measuring 3-88-38 Hectares has deliberately been shown equal to 76 Kanals instead of 100.97 Kanals and the area measuring 2-88-19 Hectares is shown equal to 56 Kanals instead of 74.4 Kanals with the intention of cheating the petitioner and his mother and getting the sale deeds executed for more land than was agreed to be sold. It has been alleged that respondents conspired to cheat the petitioner and his mother by manipulating the revenue record and fraudulently induced them under misrepresentation to part with more than 24.97 Kanals and 18.40 Kanals

of excess land.

8. Heard. The sum and substance of the lengthy petition is that petitioner was asked by respondent No. 5 to sign sale deeds both dated 27.8.2004 vide which land measuring 3-88-38 Hectares and land measuring 2-86-19 Hectares were sold to purchasers. It has been alleged that the area measuring 76 Kanals was shown 3-88-38 Hectares in one sale deed and area measuring 56 Kanals was shown 2-86-19 Hectares in another sale deed. There was no reason to disbelieve the representation made by respondent No. 5 and other accused regarding the sale deeds. The petitioner was not conversant with the conversion table from Hectares to Kanals. The petitioner appended his signatures on the sale deeds as a witness. It has been alleged that in the jamabandi the area measuring 3-88-38 Hectares has been deliberately shown equal to 76 Kanals instead of 100.97 Kanals and area measuring 2-86-19 Hectares has been shown equal to 56 Kanals instead of 74.40 Kanals with the intention to cheat the mother of the petitioner and the petitioner. In this way, on the basis of misrepresentation more than 24.97 Kanals and 18.40 Kanals of excess land was got sold by the respondents in conspiracy with each other.

9. The sale deed dated 27.8.2004 with respect to 3-88-38 Hectares as per jamabandi 2002-03 has been placed on record. In the sale deed, Khasra numbers have been mentioned and their total area has been shown in Hectares and not in Kanals. Similar is the position of another sale deed dated 27.8.2004 with respect to sale of 2-86-19 Hectares as per jamabandi 2002-03, in that sale deed also, khasra numbers have been mentioned and the area has been shown in Hectares and not in Kanals. The petitioner is a retired I.A.S. officer. It is not believable that petitioner does not know the measurement or he does not know conversion table from Hectares to Kanals or from Kanals to Hectares. Even if it is assumed that petitioner was not aware of the conversion table, in that case also, it is not believable that petitioner signed the sale deeds as a witness as claimed by him on the basis of representation of the respondents. The element of cheating, inducement etc. on the part of the respondents has not at all been prima-facie established by the petitioner.

10. In Criminal Revision No. 197 of 2011 decided on 1.12.2011 similar allegations of petitioner with respect to another sale deed against respondents of that case were not found sufficient to initiate criminal action against the respondents of that case. In the present case also in substance, the allegations are similar, difference is only of respondents. The dispute raised by the petitioner if any is of civil nature. The learned Magistrate has committed no error in dismissing the complaint vide order dated 21.5.2011. There is no merit in the revision. In view of above, revision fails and is accordingly dismissed.