

---

**(2012) 02 P&H CK 0030**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. M-1696 of 2008**

Madan Lal and Another

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

---

**Date of Decision :** 29-02-2012

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 471

**Citation :** (2013) 3 Crimes 169 : (2012) 3 RCR(Criminal) 643

**Hon'ble Judges :** Mehinder Singh Sullar, J

**Bench :** Single Bench

**Advocate :** P.K. Kukreja, for the Appellant; Kartar Singh, D.A.G., Haryana for the Respondent No. 1 and Mr. Arvind Singh, Advocate for the Respondent No. 2, for the Respondent

---

## Judgement

Mehinder Singh Sullar, J.—The contour of the facts and material, culminating in the commencement, relevant for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, is that Pryag Raj Goel and Madan Mohan Goel sons of Ram Chander Goel, were the owners of the plot in dispute. They agreed to sell it to Tripta Devi (petitioner No. 2), wife of Madan Lal (petitioner No. 1), executed the agreement to sell dated 28.6.1999 (Annexure P3) and received a sum of Rs. 12,00,000 as earnest money. At the same time, they have also appointed her husband Madan Lal (petitioner No. 1) as their general attorney, by way of deed of general power of attorney (Annexure P2). However, since complainant Bhopal Singh (respondent No. 2) (for brevity "the complainant") was stated to be in possession of the plot in question, so, the sale deed could not be executed between them. Sequel, thereafter, the petitioners have sold their all rights in the said plot, derived from Pryag Raj Goel and Madan Mohan Goel, for a total consideration of Rs. 12,00,000, which they have received as earnest money, by virtue of agreement to sell (Annexure P3), to the complainant in lieu and received a sum of Rs. 11,00,000 in this respect, vide agreements dated 15/18.7.1999. Apprehending dispossession, the complainant filed a civil suit, bearing No. 162 of 1999 for a

decree of permanent injunction, restraining Pryag Raj Goel, Madan Mohan Goel and Madan Lal (defendants therein) from interfering in his possession over the disputed plot. The suit was decreed, by virtue of ex parte judgment dated 9.12.1999 (Annexure P4). Meanwhile, the petitioners and complainant have amicably settled their dispute, acknowledging the complete surrender of all their (petitioners) rights in the plot in lieu of already paid Rs. 11,00,000 in favour of complainant and entered into compromise (Annexure. P5). Still, the complainant and his wife filed another civil suit dated 5.7.2007 (Annexure P6) for a decree of permanent injunction, restraining Pryag Raj Goel, Madan Mohan Goel, Madan Lal (petitioner No. 1), Smt. Tripta Devi (petitioner No. 2) and one Umed-Dahiya (defendants therein) from interfering in their peaceful possession over the plot in question.

2. Not only that, the complainant again made a complaint to the police with regard to the same subject matter contained in the plaint (Annexure P6), alleging therein that the petitioners have failed to execute the sale deed in his favour, embezzled a sum of Rs. 11,00,000 and thus cheated him. In the background of these allegations and in the wake of complaint of the complainant, the present case was registered against the petitioners/accused, vide FIR No. 406 dated 19.9.2007 (Annexure P1), on accusation of having committed the offences punishable under Sections 420, 467, 468 and 471 IPC by the police of Police Station Chandni Bagh, Panipat in the manner described hereinabove.

3. Faced with the grave situation, the petitioners did not feel satisfied with the registration of the criminal case and preferred the instant petition to quash the impugned FIR (Annexure P1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C.

4. The case set up, in brief in so far as relevant, is that the petitioners did not have the intention to cheat or cause wrongful loss or breach of trust to the complainant and the bare reading of the FIR does not disclose the commission of any offence. They never forged any documents or caused loss to him. Moreover, since the subject matter of the FIR is directly and substantially in issue in the indicated civil suits, so, no offence is made out against the petitioners. Admitting the genuineness of the documents (Annexures P2, P3 & P5), it was claimed by them that as the complainant was in possession, therefore, the sale deed could not be executed in their favour. However, the petitioners sold their all rights in the plot in dispute, derived from Pryag Raj Goel and Madan Mohan Goel for a total consideration of Rs. 12,00,000, which they have received as earnest money, by way of agreement to sell (Annexure P3), to the complainant in lieu and received a sum of Rs. 11,00,000 in this behalf, vide agreements dated 15/18.7.1999, duly acknowledged in the compromise deed (Annexure P5). The grievance of the complainant for non-execution of the sale deed was claimed to be purely a dispute of civil nature.

5. Levelling a variety of allegations and narrating the sequence of events in detail, in all, the petitioners claimed that no offence whatsoever is made out

against them. On the strength of the aforesaid grounds, they sought to quash the impugned FIR (Annexure P1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinbefore.

6. The respondents refuted the prayer of the petitioners and filed their separate replies, inter alia pleading certain preliminary objections of, maintainability of the petition, cause of action and locus standi of the petitioners. The State of Haryana in its reply has vaguely denied the allegations being matter of record, whereas the complainant has not disputed the validity and genuineness of the power of attorney (Annexure P2), agreement to sell (Annexure P3) and agreements entered into between him and the petitioners, duly acknowledged in the compromise deed (Annexure P5). It was alleged by the complainant that since the petitioners did not execute the sale deed in his favour, so, they have committed the indicated offences. Instead of reproducing the entire contents of the replies and in order to avoid the repetition, suffice it to say that the respondents have reiterated the allegations contained in the impugned FIR (Annexure P1). However, it will not be out of place to mention here that they have stoutly denied all other allegations contained in the main petition and prayed for its dismissal.

7. Having heard the learned counsel for the parties at quite some length, having gone through the record with their valuable assistance and after bestowal of thoughts over the entire matter, to my mind, the present petition deserves to be accepted in this context.

8. Such thus being the position on record now the short and significant question, though important, that arises for determination in this petition is, as to whether the impugned FIR (Annexure P1) and all other subsequent proceedings arising therefrom, deserve to be quashed in this relevant connection or not?

9. Having regard to the rival contentions of learned counsel for the parties, to me, the answer must obviously be in the affirmative as the criminal prosecution cannot legally be permitted to continue against the petitioners under the present set of circumstances.

10. As is evident from the record, that Pryag Raj Goel and Madan Mohan Goel sons of Ram Chander Goel were the owners of the disputed plot. They agreed to sell the same to Tripta Devi (petitioner No. 2) wife of Madan Lal (petitioner No. 1), executed the agreement to sell dated 28.6.1999 (Annexure P3) and received a sum of Rs. 12,00,000 as earnest money. At the same time, they have also appointed her husband Madan Lal (petitioner No. 1) as their general attorney, by means of deed of general power of attorney (Annexure P2). However, as the complainant was stated to be in possession of the disputed plot, therefore the sale deed could not be executed between them. Thereafter, the petitioners sold their all rights in the said plot derived from Pryag Raj Goel and Madan Mohan Goel for a total consideration of Rs. 12,00,000, which they have received as earnest money, through the medium of agreement to sell (Annexure P3), to the

complainant in lieu and received a sum of Rs. 11,00,000 in this respect, vide agreements dated 15/18.7.1999, duly acknowledged in the compromise deed (Annexure P5) Apprehending dispossession, the complainant filed a civil suit, bearing No. 162 of 1999 for a decree of permanent injunction, restraining Pryag Raj Goel, Madan Mohan Goel and Madan Lal (defendants therein) from interfering in his peaceful possession over the plot in question. The suit was decreed, vide ex parte judgment dated 9.12.1999 (Annexure P4). In the meantime, the petitioners and complainant settled their dispute and entered into an agreement/Compromise dated 5.2.2007 (Annexure P5), which is to the following effect:

Whereas we Madan Lal s/o Sh. Devi Dass r/o House No. 1104, New Housing Board Colony, Panipat (first party).

Bhopal Singh s/o Sh. Mamraj r/o Gohana Road, Panipat (Second party). Whereas first party through his wife Smt. Tripta has entered into one agreement dated 28.6.1999 with Pryag Raj Goel and Madan Goel r/o Malviya Nagar Jaipur regarding the plot khasra No. 3499/1, Plot No. 334, Gohana Road, Panipat and General Power of Attorney was executed in the name of first party but the second party was in possession of the plot and plot could not be got vacated. So one compromise was executed between the parties related to the plot in which the party No. 1 has sold the rights related to the plot which he has purchased from above said Pryag Raj etc. to the party No. 2 on 15.7.1999/18.7.99. In this manner, the party No. 1 has no link with the plot in question.

Now the present parties were having dispute qua the said plot due to misunderstanding and the first party as well as second party moved complaints against each other in the police station. When now the parties have met each other then the misunderstanding was cleared and compromise has been effected that the first party will not have any link with the plot. Second party will retain the possession of the plot as owner and second party has purchased the rights of the plot in question from the first party. It has been settled that the first party will not raise any kind of dispute with the second party related to the plot and will not get executed registry from the original owners and second party will not raise any dispute/claim in future with the first party related to the payment made related to the plot. In future parties will not proceed any legal action against each other related to the plot.

If any complaint or court case is pending with the police/court then the parties will not proceed with the same and will withdraw it. The first party has obtained agreement power of attorney, the first party will not utilize the same.

This internal compromise has been listened by the parties and have understand its written contents which may be utilized if required.

Dated

Sd/ first party Madan Lal s/o Devi Dass Sd/ 2nd party Bhopal Singh s/o Mamraj  
Witnesses:

1. Rajpal s/o Sh. Sahajram Sd/ r/o Tehsil Camp Panipat.
2. Satish Kumar Advocate Panipat Court Sd/
3. Ravi Kapoor s/o Sh. Daulat Ram Kapoor, Sonipat Sd/
4. Shim Sain Moonjal s/o Sh. Piara Lal Sonipat Sd/ attested by Notary Public Sd/ SP Sharma 5.2.2007.

11. Meaning thereby, once the parties have settled all their disputes on 5.2.2007, through the medium of indicated compromise, then subsequently, lodging the FIR dated 19.9.2007 (Annexure P1) with regard to the same very subject matter against the petitioners would amount to deep misuse/abuse of process of law.

12. There is another aspect of the matter, which can be viewed from a different angle. What cannot possibly be denied that the complainant and his wife filed another civil suit dated 5.7.2007 (Annexure P6) for a decree of permanent injunction, restraining Pryag Raj Goel, Madan Mohan Goel, Madan Lal (petitioner No. 1), Smt. Tripta Devi (petitioner No. 2) and one Umed Dahiya (defendants therein) from forcibly interfering in their peaceful possession over the plot in question, wherein, they have admitted that the defendants have received a sum of Rs. 11,00,000 from him (complainant) to legalize his possession over the disputed plot, in order to keep peace with the neighbours.

13. As is clear from the FIR (Annexure P1) that the main grievance of the complainant was that since the petitioners did not execute the sale deed, so, they have embezzled the amount of Rs. 11,00,000 and cheated him. If the crux of the contents of the FIR (Annexure P1) is clubbed together and is perused, then, it gives rise to a dispute of purely a civil nature. The question of execution of sale deed or otherwise cannot be gone into by the police or the criminal Court. Only the civil Court has the jurisdiction to decide such intricate questions. It is now well recognized principle of law that the matter, which essentially involves the dispute of civil nature cannot legally be allowed to become subject matter of criminal proceeding. It is not a matter of dispute that the jurisdiction of civil and criminal courts is entirely different and distinct from each other. The matter which squarely falls within the ambit and jurisdiction of the civil court cannot legally be permitted to be re-agitated in parallel proceedings in the criminal court. If the complainant is permitted to re-agitate the same very dispute in the garb of criminal prosecution, by way of impugned FIR (Annexure P1), then, there will be no end of unwarranted litigation and it will inculcate and perpetuate injustice to the petitioners in this relevant direction. The complainant cannot possibly and legally be permitted to execute a nonexistent civil court decree by putting pressure of a criminal prosecution against the petitioners/accused. This matter is no more res integra and is well settled.

14. An identical question came to be decided in case Indian Oil Corporation Vs. NEPC India Ltd. and Others, , wherein Hon"ble Apex Court cautioned about a growing tendency of the people to convert purely civil disputes into criminal

cases, in which, it was noticed the prevalent impression that since the civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors, so, the people have started to settle civil disputes and claims, which do not involve any criminal offence, by applying the pressure through criminal prosecution. It was observed that such effort should be deprecated and discouraged. The same view was taken by the Hon"ble Supreme Court in case Inder Mohan Goswami and Another Vs. State of Uttaranchal and Others, wherein it was observed that the veracity of the facts alleged by the complainant can only be ascertained on the basis of evidence and documents by a civil court of competent jurisdiction and if the dispute in question is purely of a civil nature, in that eventuality, the initiation of criminal proceedings by the complainant against the accused is clearly an abuse of process of the Court.

15. Not only that, the same very view was again reiterated by the Hon"ble Apex Court in case Joseph Salvaraj A. Vs. State of Gujarat and Others, , in which, it was ruled as under:

In our opinion, the matter appears to be purely civil in nature. There appears to be no cheating or a dishonest inducement for the delivery of property or breach of trust by the appellant. The present FIR is an abuse of process of law. The purely civil dispute, is sought to be given a colour of a criminal offence to wreak vengeance against the appellant. It does not meet the strict standard of proof required to sustain a criminal accusation. In such type of cases, it is necessary to draw a distinction between civil wrong and criminal wrong as has been succinctly held by this Court in Devendra and Others Vs. State of U.P. and Another, in which, it was held (para 27) that a distinction must be made between a civil wrong and a criminal wrong. When dispute between the parties constitute only a civil wrong and not a criminal wrong, the courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out.

16. Sequelly, the contrary submissions of counsel for the respondents *stricto sensu* deserve to be and are hereby repelled under the present set of circumstances as the ratio of law laid down in the aforesaid judgments *mutatis mutandis* is applicable to the facts of the present case and is the complete answer to the problem in hand.

17. Above all, no material, muchless cogent, is forthcoming on record, even to suggest remotely as to how, when and in what manner, the petitioners have cheated the complainant or prepared any forged documents, particularly when the validity and genuineness of the power of attorney (Annexure P2), agreement to sell (Annexure P3) and agreements entered into between them, duly acknowledged in the compromise deed (Annexure P5), have not been disputed in any manner by the complainant. Moreover, all the essential ingredients of the indicated offences are totally lacking in this case. Thus, the complainant appears to have vexatiously and maliciously involved the petitioners in order to wreak vengeance and the criminal proceeding is manifestly attended with *mala fide*

against them. Such reckless/mala fide FIR deserves to be quashed, as per the law laid down by Hon"ble Supreme Court in case State of Haryana and others Vs. Ch. Bhajan Lal and others, which was again reiterated in case Som Mittal Vs. Govt. of Karnataka, In this manner, the complainant cannot legally be permitted to launch frivolous criminal proceedings against the petitioners. The initiation and continuation of such criminal prosecution is nothing, but sheer and complete misuse/abuse of process of criminal law. Therefore, to my mind, the impugned FIR (Annexure P1) and all other subsequent proceedings arising there from, deserve to be quashed in the obtaining circumstances of the case.

18. No other legal point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

19. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of the civil suit (Annexure P6), the instant petition is accepted. The impugned FIR (Annexure P1) and all other subsequent proceedings arising there from, are hereby quashed.

Consequently, the petitioners-accused are discharged from the indicated criminal case in this relevant behalf.

Needless to mention that, nothing observed here-in-above, would reflect, in any manner, on the merits of the civil suit, as the same has been so recorded for a limited purpose of deciding the instant petition.