

(2013) 07 P&H CK 0645
In the Punjab And Haryana At Chandigarh
Case No : CR 8219 of 2010 (O and M)

Rupinder Kaur

APPELLANT

Vs

Paramjit Kaur and Others

RESPONDENT

Date of Decision : 31-07-2013

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 125, 128, 421

Citation : (2014) 1 DMC 193

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Advocate : N.S. Swatch, for the Appellant; Monika Jalota, Advocate for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

Jaswant Singh, J.—The Objector by filing the present revision petition under Article 227 of the Constitution is assailing the order dated 26.10.2010 (P10) and the order dated 29.7.2009(P5) passed by the learned Sub Divisional Judicial Magistrate, Mohali whereby her objections have been dismissed and attached property has been ordered to be put on sale. Learned counsel for the petitioner states that the present proceedings were initiated by the respondents 1 and 2 namely Paramjit Kaur and her minor son Taranjot Singh, against respondent no. 3 Harjit Singh (who is husband and father of respondents 1 and 2) by filing an application u/s 128 Cr. PC for enforcing the order dated 3.9.2008 passed by the Court for effecting recovery of Rs. 60,000/- from Harjit Singh on account of arrears of maintenance. He submits that the agriculture land/property in question could not be attached nor put to sale under the provisions of Cr. PC and moreso when the petitioner/objector had purchased the property in question vide two registered sale deeds dated 11.10.2007 (P15) and 15.10.2007 (P-16). It is thus submitted that the impugned orders P5 and P10 are liable to be set aside.

2. On the other hand, counsel for respondents 1 and 2 has argued that keeping

in view the provisions of sub-section(3) of Section 125 Cr. PC read with the provisions of Section 421 Cr. PC, the learned Court below was fully competent to order the attachment and execution of the same towards the recovery of the arrears of maintenance. She further submits that order of attachment of property was never challenged by the petitioner/objector and further argued that even on the face of it the two sale deeds Annexures P-15 and P-16 executed by Harjit Singh in favour of petitioner-Rupinder Kaur, who is established on record as his second wife, is a sham transaction to defeat the claim of respondents 1 and 2.

3. After hearing the learned counsel for the parties and giving my anxious thoughts, I find that the present revision petition is devoid of any merits. The provisions of sub-section (3) of Section 125 clearly ordain the procedure provided for levying of fines and recovery of the same as provided in Section 421 to be adopted for recovery of the arrears of maintenance granted u/s 125 Cr. PC. Still further, from the impugned orders it is established that the petitioner/objector-Rupinder Kaur, on the basis of documentary evidence on record, is established to be second wife of Harjit Singh and thus her plea of bona fide purchaser in her objections has been validly rejected. Still further even as per her own case before the Court below she admitted her relation with Harjit Singh as that of brother-in-law (Jeth). In such circumstances taking facts cumulatively, I find no illegality in the impugned orders. Accordingly, the present revision petition is dismissed with costs of Rs. 10,000/- to be paid to respondents 1 and 2.