

CIS No. chi/130/2016 cnr no. PBFZA10013952016
State Versus Raj Singh etc.

Present. APP for State assisted by Sh. G.S. Virk, Advocate counsel
for complainant.
All accused on bail with counsel Sh. B.S.Sandhu, Advocate.

Heard on the application filed by the learned APP for State for grant of permission to produce (a) certified copy of application under Section 28 of Specific Relief Act titled as Kulwant Singh Versus Darshan Singh (b) Bank record of cheque bearing No. 005936 of HDFC Bank worth Rs.1,03,00,000/- and (c) concerned orders of Executing Court. It is averred in the application that matter in dispute between parties is agreement of sale. Complainant has filed civil suit No.66 of 31.05.2016 in concerned learned court of Faridkot which was decided on 18.08.2018 in favour of complainant. Honourable court ordered to deposit remaining amount necessary for sale consideration. Thereafter, complainant filed an application under Section 28 of Specific Relief Act before court of learned Civil Judge (Senior Division), Faridkot wherein complainant also deposited amount of Rs.1,03,00,000/- vide demand draft bearing No.005936 dated 29.04.2022. The said documents are necessary for decision of this case. Complainant has applied for certified copies of said bank draft and has produced photostat copy of same which has been attached with present application. He will produce certified copy as per order of the Court. Prayer is made to allow application.

2. Upon notice, reply to said application is filed with averments by accused persons by admitting pendency of present case. It is also admitted that complainant Kulwant Singh had filed suit for specific performance against Darshan Singh accused in present case on

State Versus Raj Singh etc.-2-

the basis of agreement dated 26.08.2015. The said suit was decreed on 18.08.2018 vide judgment Ex.PW3/C in which time of one month was given to complainant Kulwant Singh to deposit remaining consideration amount in favour of defendant Darshan Singh. Said time was granted upto 19.09.2018. The said complainant/(decree holder in civil suit) filed an application under Section 28 of Specific Relief Act, as amount was not ready. Kulwant Singh was contesting said application and is leading his evidence. Accused persons have also submitted certified copy of application Ex.DA/1, certified copy of issues framed on 18.04.2022 Ex.DA/2, order dated 01.08.2022 Ex.DA/3, statement of Kulwant Singh Ex.DA/4, affidavit EX.DA/5, cross examination of Kulwant Singh EX.DA/6 dated 22.08.2022. The said application is pending before court of learned Civil Judge (Senior Division) Faridkot. Complainant (decree holder Kulwant Singh) was having no balance amount as per decree passed in his favour on 18.08.2018. He lodged false and frivolous FIR against all family members of Darshan Singh. Accused Darshan Singh has no knowledge about any alleged draft bearing No. 005936 dated 29.04.2022. Remaining averments made in application were denied with prayer to dismiss the same.

3. After hearing learned APP for State and learned defence counsel and further perusal to record, it shows that FIR in present case is registered on the basis of enquiry/application filed by complainant Kulwant Singh with allegations that accused persons have induced complainant Kulwant Singh to deliver Rs.25,00,000/- as earnest money for purchasing land and they did not execute sale deed as per

State Versus Raj Singh etc. -3-

agreement to sell. Agreement to sell in dispute in present case dated 26.08.2015 is Ex.PW3/A. After framing of charge, prosecution led its evidence by examining witnesses and thereafter same was closed on 07.07.2022. Thereafter statements of accused were recorded under Section 313 of Cr.P.C.. Then present case was at the stage of leading evidence by accused persons wherein present application is filed by learned APP for State on 30.09.2022 for producing on record three documents as mentioned above. As per file, accused persons have already produced on record on record, certified copies of application under Section 28 of Specific Relief Act as Ex.DA dated 29.04.2022 on 16.08.2022. Photostat copy of bank demand draft is produced without mentioning of any order of court for producing the said photostat copy in said application under Section 28 of the Act. Accused persons have brought on record certified copy of affidavit of complainant Kulwant Singh which is Ex.DA/5 attested on 08.07.2022 and was tendered on 01.08.2022 in said application vide statement Ex.DA/4. Perusal of said affidavit itself shows that no mentioning with regard to deposit of amount vide above said draft dated 29.04.2022 by applicant/complainant Kulwant Singh. Nothing is mentioned in the present application if said demand draft is ever produced in said application. As per version given in the application, the said demand draft is dated 29.04.2022 and photostat copy of said document shows that same is in favour of learned Civil Judge, (Senior Division). Accused persons have already produced certified copy of orders in application filed by complainant under Section 28 of Specific Relief Act which orders were passed on 18.04.2022 with regard to framing of

issues and further zimni order dated 01.08.2022. Nothing is mentioned in application with regard to dates of orders of Executing Court or case wherein said orders were passed.

4. So, in view of above said evidence, this court considers that present application is filed only to delay the proceedings in the present case. As such, in view of above discussion, present application is hereby dismissed. Now case is adjourned to 11.11.2022 for defence evidence.

Dated 02.11.2022.

Dalip Goyal

Stenographer Grade -II

sd/-

(Parvinder Kaur)

Sub Divisional Judicial Magistrate,

Zira (UID No.PB 0324)