

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No.M-44822 of 2006 (O&M)
Decided on : 13.05.2015**

Jagtar Singh

.... Petitioner

Vs.

State of Punjab & anr.

.... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. P.S.Hundal, AAG, Punjab.

MAHESH GROVER, J.(Oral)

This is a petition under Section 482 Cr.P.C praying for quashing of FIR No.149 dated 21.07.2006 registered under Sections 447, 420 & 120-B IPC at Police Station Focal Point Ludhiana and all consequent proceedings arising therefrom.

A perusal of the FIR indicates that the dispute inter se the parties erupted regarding possession of certain portion of plot measuring 416 sq. yards. The matter also acquired a criminal colour when a case under Section 307 IPC was registered against the present petitioner. Thereafter the matter was settled and it was agreed that 250 sq. yards plot would be transferred in favour of the wife of the complainant by virtue of a sale deed while the remaining portion i.e. 166 sq. yards would remain with the petitioner. It was alleged that the petitioner is trying to dispossess the complainant and is issuing threats in this regard. The aforesaid allegations are contained in the FIR and in the present petition, the petitioner prays for quashing of the FIR and other consequential proceedings arising therefrom.

Learned counsel for the petitioner states that from a bare reading of FIR no offence much less the one alleged under Sections 447, 420 and 120-B IPC is made out. Besides, it has been brought to the notice of the Court that civil suit has already been filed by the complainant to protect his right and the appeal against the same also stands dismissed.

Be that as it may, the Court is confronted with the FIR where the allegations do not disclose any offence. It is settled proposition of law that if FIR does not disclose commission of any offence the Court while exercising its powers under Section 482 Cr.P.C. would not hesitate to quash the proceedings particularly when a person's trial is unlikely to result in his conviction.

In the case of ***State of Haryana and others versus Bhajan Lal and others, AIR 1992 SC 604*** following principles were laid down for considering the quashing of a complaint:-

- 1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Where, the allegations in the FIR do not constitute a*

cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

- 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
- 7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

The contents of the FIR are extracted herebelow:

"That I, Piara Singh son of Bahal Singh, am resident of House No.J-Block 231/100 Bhai Randhir Singh Nagar Ludhiana. In the year 2000, I had purchased one plot measuring 416 sq. yards from Ranjit Singh son of Balwant Singh, the general power of attorney of which had been executed in my favour. In April 2000, Jagtar Singh son of Pritam Singh resident of Gobindgarh, out of aforesaid 416 sq. yards plot, took illegal possession of 166 sq. yards and lodged false criminal case against me in Police Station Focal Point, which according to the investigation of the police was found to be false, the same was cancelled. That the police registered case under Section 307 IPC against Jagtar Singh, which is

now pending in Court and was fixed for evidence. On that day, outside the Court, Jagtar Singh compromised with me, which was disposed of about one month ago. Ranjit Singh after canceling the power of attorney in my favour regarding 416 sq. yards plot, executed sale deed regarding 250 sq. yards in favour of my wife Surjit Kaur. Since as per the compromise effected orally between me and Jagtar Singh, 166 sq. yards of land was to be kept by him and 250 sq. yards of land was to be kept by me upon which since 2000, after taking possession, I had raised boundary wall. Now Jagtar Singh with dishonest intention is trying to take possession of my 250 sq. yards of land, after repairing the boundary wall, which was raised by me, he is showing his possession and is threatening me that you leave this 250 sq. yards of land, otherwise you will be killed. That I am serving as Government employee in the bank. Therefore, my plot be got delivered to me and my life and liberty be protected. Jagtar Singh etc. have tried to take possession of plot, for which case be registered against him."

For the aforesaid reasons and when FIR does not reveal the commission of any offence and the ingredients of any of the Sections against the petitioner do not stand established as also for the reason that the civil suit filed by the complainant stands decreed, I am of the considered view that the proceedings of the FIR would be sheer abuse of process of law. Consequently, FIR No.149 dated 21.07.2006 registered under Sections 447, 420 & 120-B IPC at Police Station Focal Point Ludhiana and all consequent proceedings arising therefrom qua petitioner are hereby quashed.

The present petition stands allowed.

13.05.2015

(Mahesh Grover)
Judge