

CRM-M-23508-2013 (O&M)
CRM-M-7475-2014 (O&M)

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In the High Court of Punjab and Haryana at Chandigarh.

(1) **CRM-M-23508-2013 (O&M)**
Date of Decision:18.08.2015

Parshotam Sharma ...Petitioner

Versus

State of Punjab and others ...Respondents

(2) **CRM-M-7475-2014 (O&M)**
Date of Decision:18.08.2015

Shekhar Ahluwalia and another ...Petitioners

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Inderjit Sharma, Advocate,
for the petitioner(s).

Mr. A.S. Sidhu, AAG, Punjab.

None for respondent No.3.

SABINA, J.

Vide this order above mentioned two petitions
would be disposed of as the same have arisen out of same FIR.

Petitioners have filed these petitions under Section
482 of the Code of Criminal Procedure, 1973 for quashing of
FIR No.60 dated 12.04.2011, under Sections 420, 467, 468,
471 and 34 of the Indian Penal Code, 1860 ('IPC' for short)

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registered at Police Station City Gurdaspur and all consequential proceedings arising therefrom.

Heard.

Prosecution story, in brief, is that Harbans Kaur and her son Baldev Singh had purchased 51 marlas vacant plot in the year 1972 and mutation was sanctioned in their favour. Baldev Singh died on 31.03.1995 and his share was inherited by his wife Inder Kaur, son Prabhsharan Singh, daughter Preetinder Kaur and mother Harbans Kaur in equal shares. Inderjit Kaur died on 03.12.2000. Prabhsharan Singh got an entry made in the Municipal record by submitting an affidavit that his mother was owner of the property and had not executed any Will and his sister has no objection if he became owner of the entire property including the half share of Harbans Kaur. At that stage, Will executed by Baldev Singh had not been produced by Prabhsharan Singh. Thereafter, Prabhsharan Singh prepared forged sale deed alleged to have been executed by Harbans Kaur qua her half share. Prabhsharan Singh, in conspiracy with other co-accused, prepared a forged Will, alleged to have been executed by Baldev Singh, and transferred 51 marlas of land in favour of petitioners Shekhar Ahluwalia and Menakshi Ahluwalia vide sale deed dated 24.09.2009.

Learned counsel for the petitioners has submitted

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that so far as the petitioners Shekhar Ahluwalia and Menakshi Ahluwalia are concerned, they were *bona fide* purchaser for consideration. The said petitioners had purchased the land in question after verifying the revenue record. As per the revenue record, Prabhsharan Singh was described as owner in possession of the suit land. So far as petitioner Parshotam Sharma is concerned, he had merely identified the signatures of his father on Will dated 27.04.1993 executed by Baldev Singh in favour of his son Prabhsharan Singh at the time of its registration.

Learned State counsel, on the other hand, has opposed the petition and has submitted that after thorough investigation of the case, challan has been presented against the petitioners.

None has appeared on behalf of respondent No.3.

In the case of **State of Haryana** vs. **Bhajan Lal.**, 1992 **Supp(1) Supreme Court Cases 335**, the Apex Court has held as under:-

“The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers under Section 482, Cr.P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to

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lay down any precise, clearly defined and sufficiently chennelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:-

- (1) Where the allegations made in the first information report or the complainant/respondent No.2, 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

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only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of 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 specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings 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.

We also give a note of caution to the effect

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that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

In the present case, complainant Amarpreet Singh Luna is the son of the daughter of Harbans Kaur. Thus, Baldev Singh and mother of Amarpreet Singh Luna are brother and sister. Baldev Singh and his mother Harbans Kaur had purchased the plot in question in the year 1972 in equal shares. Prabhsharan Singh had set up a Will in his favour executed by his father Baldev Singh qua his share in the plot in question. So far as Harbans Kaur is concerned, she had allegedly executed the sale deed in favour of Prabhsharan Singh qua her share. Thus, Prabhsharan Singh is the beneficiary so far as the Will is concerned as well as the sale deed executed by Harbans Kaur in his favour is concerned.

As per the revenue record Prabhsharan Singh was described as owner in possession of the suit land. Petitioners Shekhar Ahluwalia and Menakshi Ahluwalia can be described as *bona fide* purchasers as they had purchased the property after verifying the revenue record. No knowledge can be attributed to

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the said purchasers qua the alleged forgery committed at the time of the preparation of the Will or the sale deed executed by the Baldev Singh and sale deed executed by Harbans Kaur. Hence, continuation of criminal proceedings against petitioners Shekhar Ahluwalia and Menakshi Ahluwalia would be nothing but an abuse of process of law.

So far as petitioner Parshotam Sharma is concerned, he had merely identified the signatures of his father on the Will, allegedly executed by Baldev Singh in favour of Prabhsharan Singh at the time of its registration. Thus, petitioner Parshotam Sharma is not an attesting witness to the Will. So far as the Will executed by Baldev Singh in favour of his son is concerned, the same has not been challenged by his other legal heirs. Hence, continuation of criminal proceedings against petitioner Parshotam Sharma would also be nothing but an abuse of process of law.

Accordingly, these petitions are allowed. FIR No.60 dated 12.04.2011, under Sections 420, 467, 468, 471 and 34 IPC registered at Police Station City Gurdaspur and all the consequential proceedings, arising therefrom qua the petitioners, are quashed.

August 18, 2015
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(SABINA)
JUDGE