

CRM-M-27895-2013 (O&M)

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

**CRM-M-27895-2013 (O&M).
Decided on: November 30, 2015.**

Vimal Narang

..... Petitioner(s)

Versus

State of Haryana and others

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Ashok Tyagi, Advocate,
for the petitioner.**

Mr.C.S.Bakshi, Addl. A.G., Haryana.

**Mr.M.S.Khillan, Advocate,
for respondent No.3.**

M.M.S. BEDI, J (ORAL).

Petitioner seeks quashing of FIR which was registered at the instance of Rajinder Singh alleging that mutation No.28185 of 17.9.2007 was got sanctioned by the petitioner whereas the complainant was owner to the extent of 1/4th share in the total land.

Counsel for the petitioner has vehemently urged that the mutation had been sanctioned by the revenue officers in accordance with law and that after the mutation was sanctioned sale deed dated 4.2.2008, was executed by the petitioner in favour of Rajinder Singh regarding part of the property. The petitioner claims that she had inherited the land from her husband Baij Nath Narang.

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Counsel for the petitioner has also, inter alia, argued that the property which had been wrongly mutated stands reverted back to the original owner as the property shown was land of Society. The petitioner claims that she is an old lady. Charge had been framed in this case after presentation of challan on 23.4.2013 whereas this petition for quashing of FIR was filed on 18.8.2013.

When confronted as to how the petition for quashing of FIR could have been filed without challenging the charges framed, counsel for the petitioner has placed reliance upon judgment of this Court in **Lakhwinder Singh Vs. State, 2000 (4) RCR (Crl.) 105**, to contend that there is no absolute bar to entertain a petition for quashing of criminal proceedings on the ground that charges have been framed.

I have heard the learned counsel for the petitioner. There is no controversy regarding the authority of the High Court that in the exercise of powers under Section 482 Cr.P.C., it is a wholesome jurisdiction conferred upon the High Court and cannot be narrowed, confined or put in a straitjacket and that the inherent powers can always be exercised by the High Court to prevent abuse of process of the Court or to otherwise secure the ends of justice. Wide powers have been conferred upon the High Court, but at the same time, the powers under Section 482 Cr.P.C. should be exercised with great care and caution only in the cases where parameters laid down by Hon'ble the Apex Court in **State of Haryana**

and anr. Vs. Ch. Bhajan Lal and others, AIR 1992 SC 551, have been fulfilled.

Counsel for the petitioner after arguing the matter has not been able to bring the case for quashing within the parameters of law laid down in **State of Haryana and anr. Vs. Ch. Bhajan Lal and others, AIR 1992 SC 551**, and has also not been able to explain as to why the powers under Section 482 Cr.P.C. should be exercised in the present case when the petitioner had chosen to conceal the fact that charges stood framed against the petitioner when the present petition was filed.

In view of above circumstances, this Court is not inclined to exercise the powers under Section 482 Cr.P.C. to quash the FIR and the criminal proceedings including the order of framing charges especially when these have not been challenged in context to the subject matter of the report under Section 173 (2) Cr.P.C.

After hearing the counsel for the petitioner at length, it appears that the petitioner might have a probable good defence to seek acquittal on the ground of benefit of doubt. She being an old lady can seek exemption from personal appearance on account of her physical disability.

Without expression of any opinion on merits, this petition is disposed of with a direction that all the pleas taken up in this petition would be open to the petitioner during the course of trial. The FIR having been registered in the year 2011 and the trial being

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still pending, it is ordered that in case the petitioner moves an application for exemption from personal appearance before the trial Court, the trial Court shall allow the said application subject to any reasonable conditions imposed upon the petitioner. It will be open to the trial Court to record evidence in presence of counsel for the petitioner as per the provisions of Section 273 Cr.P.C. after exempting the personal appearance of the petitioner. It is further directed that trial will be concluded within a period of one year after the next date of hearing.

November 30, 2015.
rka

(M.M.S. BEDI)
JUDGE