

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-M-2720-2015 (O&M).
Decided on: January 27, 2015.**

Dilbagh Singh

Petitioner(s)

Versus

State of Punjab and another

..... Respondent(s)

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

**PRESENT Mr.Puneet Bali, Sr., Advocate, with
Mr.Ranjit Saini, Advocate,
for the petitioner.**

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

The petitioner appears to have a dispute with his real brother respondent No.2. The petitioner filed a suit in the year 2011 for declaration that he is owner and in joint possession of the land measuring 2 kanal 16 marlas to the extent of his share and sought setting aside of the sale deed dated 3.2.1997 executed by his power of attorney holder Basant Dass in favour of Harbaksh Singh. The petitioner claims that the power of attorney on the basis of which sale deed was executed stood revoked prior to the date of the sale, dated 3.2.1997. Now, the FIR has been registered against the petitioner by respondent No.2 Major Singh through attorney Harbaksh Singh alleging that the act of revoking the power of attorney by a false document tantamounts to cheating and forgery warranting action under Sections 465, 468 and 471 IPC.

Through the instant petition, quashing of FIR has been prayed for, inter alia, on the ground that the FIR is counter-blast and an attempt to wriggle out of the result of the civil suit which is pending and that no offence is made out on the basis of the peculiar facts and circumstances of the case as no false document within the definition of provisions the Indian Penal Code is made out and revocation being a right having been properly exercised cannot be said to be an act of fraud.

After hearing the counsel for the petitioner and going through the facts and circumstances of the case, I am of the considered opinion that the FIR has been registered on 26.4.2014. through attorney of respondent No.2, Harbaksh Singh, the real brother of petitioner. The petitioner also appears to be an NRI residing in U.K. The petition has been filed through his attorney.

Without expression of any opinion on merits of the case, the present petition for quashing of FIR is disposed of as premature as prosecution agency has not opted to present challan on the basis of the investigation. All the pleas taken up in this petition can be brought to the notice of the investigating agency through any person conversant with the facts of the case and bringing the relevant documents to the notice of the investigating agency. It is directed that in case any evidence during the course of investigation is produced the same shall not be ignored by the investigating agency during the course of investigation in accordance with the provisions of Section 163 (2) Cr.P.C. Even otherwise, the petitioner can avail the remedy under Section 438 Cr.P.C.

So far as the civil suit is concerned, it will be open to the petitioner and the complainant to avail the benefit of the provisions of Order 32-A (3) CPC.

It will be open to the petitioner to approach this Court again in case on the basis of the material available with the investigating agency, the prosecution opts to present challan against the petitioner.

January 27, 2015.
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(M.M.S. BEDI)
JUDGE