

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 548 of 2012 (O&M)

Date of decision: 21.1.2015

Ram Niwas

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.J.S.Thind ,Advocate,
for the petitioner.
Mr.Rajiv Doon,Assistant
Advocate General,Haryana
Mr. P.S.Jammu,Advocate
for respondent No.2

SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) for quashing of FIR No. 133 dated 12.6.2011 registered under Sections 447,427,294,506/34 of the Indian Penal Code,1860 ('IPC' for short) at Police Station Rania, District Sirsa and all subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that the wife of the petitioner has purchased the land in question from the father of the complainant vide registered sale deed dated 6.12.2010 (Annexure P1). As per the revenue record, father of the complainant

was in possession of the land in question. Vendor was handed over the possession of the land in question at the time of execution of the sale deed. Hence, no criminal offence could be said to have been committed by the petitioner.

Learned State counsel as well as the counsel for the complainant-respondent No.2, on the other hand, have opposed the petition.

Learned counsel for respondent No.2 has submitted that the possession of the land in question was never handed over to the vendor at the time of the execution of the sale deed. Sale deed (Annexure P1) has been challenged by filing a civil suit and the same was pending.

It has been held in **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 lay down any precise, clearly defined and sufficiently channelised 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, 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 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 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, prosecution story, in brief, is that the complainant and his brother had sown cotton crop in the land in question. However, in the night intervening 11/12 June, 2011, petitioner along with 2/3 other persons came to the fields of the complainant and took away the cotton crop. The said act had been done by the petitioner with an intention to take possession of the land in question and cause loss to the complainant. Father of the

complainant had sold 5½ acres of land to the wife of the petitioner vide sale deed (Annexure P1) and the said sale deed had been challenged by the complainant and his brother in the Civil Court.

Admittedly, father of the complainant had sold land in question to the wife of the petitioner vide sale deed dated 6.12.2010 (Annexure P1). A perusal of the sale deed reveals that the purchaser had been handed over the possession of the land in question. Although, the complainant and his brother have filed the civil suit challenging the sale deed but during the course of arguments, it has transpired that no interim direction had been issued in the said suit protecting the possession of the complainant over the land in question. In these circumstances, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law. Prima facie, petitioner had come in possession of the said land on the basis of the sale deed executed by the father of the complainant in favour of the wife of the petitioner.

Accordingly, this petition is allowed. FIR No. 133 dated 12.6.2011 registered under Sections 447,427,294,506/34 IPC at Police Station Rania, District Sirsa and all subsequent proceedings arising thereto are quashed.

(SABINA)
JUDGE

January 21,2015

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