

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

(125)

CRM-M-43350-2015

Decided on: December 21, 2015.

Suresh Kumar

.... Petitioner

Versus

State of Haryana and others

..... Respondents

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

Present: Mr. V.B. Aggarwal, Advocate, for the petitioner.

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

The petitioner has been booked as accused on the basis of a complaint filed by Raghbir Singh respondent No.3 under Section 156 (3) Cr.P.C alleging that Harke Ram predecessor-in-interest of the petitioner had been allotted land under the surplus scheme dated 08.01.1977 and was required to deposit first installment within a period of one month to take possession. As he died on 23.01.1977, before taking possession, the petitioner being his heir has allegedly committed an offence of cheating and preparation of false documents, by depositing first installment in his name on 20.02.1978.

Learned counsel for the petitioner has referred to the order passed by the Financial Commissioner Annexure P-3 dated 13.01.2015 indicating that the allotment of surplus area in favour of Harke Ram predecessor-in-interest of the petitioner has been held to be valid. The learned Magistrate in the present case appears to have casually ordered the registration of FIR.

I have considered the facts and circumstances of the case and the relevant documents available with the petitioner indicating that for an alleged offence having been committed in the year 1978, an FIR has been registered on the directions of the Court in a casual manner which appears to be inappropriate.

Since the FIR has already been registered on 02.11.2015 on the basis of the complaint in which true facts appear to have been concealed instead of quashing the FIR at pre-mature stage, I deem it appropriate to issue a direction that no coercive action will be taken against the petitioner while he joins investigation and makes available the relevant documents available with him to facilitate the fair investigation on the basis of documents produced. It will be open to the investigating agency to take any steps including the cancellation/untraced report in accordance with law. However, in case, relevant and admissible evidence is available causing any wrongful loss indicating to anyone on the basis of any wrong document, it will be open to the prosecution agency to take action in accordance with law.

The above said direction has been passed taking into consideration the parameters laid down by the Apex Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2011 (1) R.C.R. (Criminal) 126** followed in **Sanjay Chandra Vs. C.B.I., 2011 (6) Recent Apex Judgments 191.**

In case at any stage of investigation, the prosecution agency forms an opinion that the custody of the petitioner is required, he will be given a seven days notice in writing in advance to avail any other legal remedy available to him.

Disposed of in the above terms.

(M.M.S. BEDI)
JUDGE

December 21, 2015
harsha