

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 25179 of 2015

Date of Decision: December 02, 2015

Balwinder Singh Bassi

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. G.S. Ghuman, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent no.5 to re-investigate/further investigate the case FIR No. 31, dated 27.02.2008, registered under Sections 420 and 120-B of the India Penal Code, at Police Station Sidhwan Bet, Jagraon, District Ludhiana (Annexure P/11).

Learned counsel for the petitioner contends that at the instance of petitioner, an FIR No. 31 dated 27.02.2008, under Sections 420 and 120-B of the Indian Penal Code, was registered at Police Station

contends that petitioner is a Non Resident Indian and residing in United Kingdom. Petitioner had given General Power of Attorney dated 26.02.1992 (Annexure P/1) to his father – Pal Singh @ Harpal Singh son of Bachan Singh, Village Purain, Tehsil Jagraon, to manage his property in Village Purain, Tehsil Jagraon, District Ludhiana. Vide Vasika No. 66 dated 17.01.2007, said General Power of Attorney has been cancelled/revoked. However, the property in question was transferred vide sale deed dated 30.01.2008 in favour of Kulwinder Singh son of Darshan Singh – respondent No.10 in spite of revocation of general power of attorney. Hence, a fraud/cheating was committed with the petitioner. The investigation in that regard has already commenced. The petitioner has prayed in the present writ petition that the matter may be re-investigated / further investigated. It is further contended by learned counsel for the petitioner that Surinderjit Singh Mand, Senior Superintendent of Police, Ludhiana is involved in this case and the property has been purchased in the name of respondent No.10 – Kulwinder Singh son of Darshan Singh.

I have heard learned counsel for the petitioner and perused the record.

Be that as it may, the fact remains that re-investigation /

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authenticity of this document

further investigation cannot be directed in view of law laid down by

Hon'ble Supreme Court in Gudalure M.J. Cherian vs. Union of India, (1992) 1 SCC 397 and Punjab & Haryana High Court Bar Association Vs. State of Punjab, 1994(1) R.C.R. (Criminal) 205. It is held by Hon'ble Supreme Court that Constitutional Courts should not normally order further investigation except in exceptional circumstances. Learned counsel for the petitioner has failed to show that there are any exceptional circumstances which may warrant the interference by this Court. The only ground raised by learned counsel for the petitioner is that petitioner is a Non-Resident Indian and it is difficult for him to file the complaint and pursue the same. Said ground cannot be treated as exceptional circumstance. Everybody has a right to proceed in accordance with law. The petitioner can pursue his remedy in accordance with law including entrusting some person with power of attorney to pursue the matter on his behalf.

The petitioner had earlier approached this Court by way of CRM M-35579 of 2010. In the said petition, this Court granted liberty to the petitioner to file a complaint or file an appropriate application for re-investigation of the case.

I have no doubt that there are specific provisions in the Code of Criminal Procedure for re-investigation/further investigation. In order dated 19.11.2014 (Annexure P/19) passed by Judicial Magistrate First

Class, Jagraon, also liberty has been granted to the petitioner to file a private complaint, if he has any grievance against any person.

In view of this, I do not find any justification to pass any order for re-investigation/further investigation in the matter.

Dismissed. However, petitioner will be at liberty to avail other alternative remedies available to him in accordance with law and also of filing an application for re-investigation/further investigation before appropriate Court and petitioner will also be at liberty to file a complaint as earlier directed by this Court and the Judicial Magistrate First Class.

December 02, 2015
vkd

[Paramjeet Singh]
Judge