

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

CRM-M No.10444 of 2016
Date of decision: 28th July, 2016

Dinesh Goyal

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Munish Bansal, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

Petitioner Dinesh Goyal has come up in this petition invoking jurisdiction of this Court in terms of Section 482 Cr.P.C. seeking quashing of FIR No.0023 dated 05.01.2015 (Annexure P1) under Sections 406, 420, 467, 468, 471, 120-B IPC pertaining to Police Station Hisar Civil Lines, District Hisar and all subsequent proceedings arising therefrom.

The brief claim on which the petition is based is that the present case has been got registered at the behest of respondent No.2 Sharda Devi on the figment of allegations that the petitioner along with one Vishnu Dutt and Mangal Singh in connivance with each other committed fraud upon her by selling to her a property through forged sale deed bearing No.7061 dated 29.07.2011 which in fact was

ownership of the Cattle Farm owned by the Haryana Government and thus, duped her of her money amounting to Rs.66.00 lacs. It was on her application moved to the concerned Illaqa Magistrate (Judicial) and in exercise of powers under Section 156(3) Cr.P.C. by the learned Magistrate has led to the registration of FIR.

The precise grounds are that the property in question was transferred in the name of mother of the petitioner namely Leelawati wife of Paryag Chand son of Rikhi Ram through a Court decree dated 16.10.2006 passed by Permanent Lok Adalat, Hisar and thus, she was owner for all intents and purposes and thereafter she transferred the said property in the name of petitioner through transfer deed dated 29.07.2011. It is claim of the petitioner that vide sale deed No.4775 dated 06.07.2012, the said property consisting of a house was sold to respondent No.2 and which the buyer, present respondent No.2, has since then demolished for constructing a service station, claiming that it is subsequent thereto the local civil body, Municipal Committee has swung into action and thus, placed reliance upon the complaint dated 15.11.2014 (Annexure P2) and inquiry report of the police dated 20.12.2014 (Annexure P3).

Upon hearing learned counsel for the petitioner, to the very query of the Court, learned counsel for the petitioner was purely at loss of words by what means the petitioner is able to prima facie show that the ownership of the property in question vests with Smt.Leelawati, his

mother, and she was the owner and in possession of the same for all intents and purposes.

Though by virtue of (Annexure P3) while holding inquiry, SP Hisar vide inquiry report dated 20.12.2014 has sought to hold the petitioner innocent but it is well enunciated law that the courts are not bound by the findings of such police inquiries when it has already registered an FIR. More so, mere passing of an award (Annexure P4) by a Lok Adalat at the most reflects that there was some sort of family arrangement whereby the property in question devolved from Smt.Leelawati to the petitioner, are matters of not much significance. Learned counsel for the petitioner could not impress upon this Court how mere paying local civic charges would bestow upon the petitioner rights of ownership nor there is any adjudication of these rights by a civil Court of law to establish it so when the alleged transfer between the mother and the son does not binds others who are not a party to this arrangement since there is no tangible evidence brought to the notice of the Court that exceptional circumstances exist to this effect. Hon'ble the Supreme Court in the case of '**State of Haryana and others v. Ch.Bhajan Lal and others**' 1992 AIR SC 604, has comprehensively discussed the powers of a High Court in exercise of its jurisdiction under Section 482 Cr.P.C. and excerpts thereof are reproduced as below to lay emphasis:

- (1) Where the allegations made in the First Information Report or the complaint, 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 F.I.R. 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 a 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 a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding 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.

The entire claim of the petitioner is based on evidence which could be only appreciated at the trial and not under Section 482 Cr.P.C. by this Court. Thus, nothing is reflected to the Court that there has been miscarriage of justice necessitating intervention by this Court. Finding no merit, the present petition stands dismissed in limine. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

July 28, 2016
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No