

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-10821-2016 (O&M)
Date of decision: July 08, 2016

Manmohan Kumar Sharma ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. H.P.S. Ghuman, Advocate for the petitioner.

Rajan Gupta, J.(oral)

This is a petition under Section 482 Cr.P.C. for quashing of criminal Complaint No.27-T of 07.10.2014, pending in the court of Judicial Magistrate 1st Class, Nabha, under sections 167, 418, 420, 466, 467, 468, 471 read with Section 34 IPC as well as summoning order dated 28.7.2015 and order dated 09.02.2016.

Learned counsel for the petitioner has submitted that a perusal of the complaint shows that no offence is made out against the petitioner. He has been falsely implicated in the case and thus the complaint as well as all consequent proceedings deserve to be quashed.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

A complaint under sections 167, 418, 420, 466, 467, 468, 471 read with Section 34 IPC was filed by Didar Singh (respondent No.2 herein) stating that accused Gurbachan Singh was owner of land measuring 26 Kanals 12 Marlas in village Dhingi, Tehsil Nabha, out of which he agreed to

sell 11 Kanals 9 Marlas to the complainant/respondent No.2. Possession of the same was also delivered to the complainant. Since accused Gurbachan Singh failed to execute the sale deed and get it registered, complainant filed a civil suit. During pendency of suit, matter was amicably settled and Gurbachan Singh got the sale deed registered regarding 4 Kanals of land. Relief regarding remaining land was relinquished. Said sale deed was produced before accused Satgur Singh Patwari so as to enter mutation and get the same sanctioned from the petitioner. However, both the revenue officials in connivance with accused Gurbachan Singh and Kulwant Singh entered and sanctioned mutation regarding 03 Kanal 19 Marlas and left 01 Marla out of the land. Subsequently, taking benefit of the said wrong entry, accused Gurbachan Singh sold remaining land 22 Kanals 13 Marlas, whereas he was owner of 22 Kanals 12 Marlas after sale of 4 Kanals of land. A complaint was accordingly filed by the complainant wherein petitioner alongwith co-accused were summoned by the trial court.

A perusal of the complaint shows that allegation against the petitioner is that he in collusion with other accused, committed an offence of fabrication of official record. After examining the preliminary evidence, trial court decided to summon the accused to face trial. Petitioner moved an application before the trial court for dismissal of complaint. Same was dismissed, vide order dated 9.2.2016. Primarily, questions of fact are involved, which can be decided by the trial court after evidence is led before it. Petitioner also availed the remedy under section 245 (2) Cr.P.C. Though there is serious doubt about maintainability of such application before the court below, but having availed of remedy and failed, plea of the petitioner

that the order is vitiated, is unsustainable. Learned counsel for the petitioner has not been able to point out any legal infirmity with the order summoning the petitioner to face trial. A perusal of the same shows that it has been passed after the court arrived at a satisfaction that prima facie evidence was available against him.

I, thus, find no ground to interfere in the impugned order in the inherent jurisdiction of this court. The petition is devoid of merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

July 08, 2016
'Rajpal'