IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-21317 of 2012
DECIDED ON: February 04, 2016

Harpreet Singh

.....Petitioner...

VERSUS

State of Punjab and another

....Respondents...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.S. Rangi, Advocate,
for the petitioner.

Mr. A.S. Sidhu. AAG, Punjab.

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? (√)

JASPAL SINGH, J.

By virtue of this petition preferred under Section 482 of the Code of Criminal Procedure, petitioner-Harpreet Singh has sought quashing of FIR No. 217, dated 25.08.2008, under Sections 419, 420, 467, 468, 471, 120-B IPC, Police Station Division No.5, Ludhiana (Annexure P-1).

2. As per the FIR, a complaint from HDFC Bank was received through Shri Rastogi unfolding that Krishan Singh son of Daya Singh applied to the Centurian Bank of Punjab for availing a loan against property along with one Harminderjit Kaur daughter of Bhagwant Singh for a sum of ₹35 lacs from the complainant-bank, offering the property bearing House No.566, Phase I, Urban Estate Dugri, Ludhiana by way of mortgage.

3. After the completion of the process, loan was sanctioned in the name of Mr. Krishan Singh and Mrs. Harminderjit Kaur vide letter dated

21.12.2007, which was accepted by them. Even, the cheques were encashed. However, after disbursement of loan to them, no installment was paid either by Krishan Singh or by Mrs. Harminderjit Kaur. Subsequently, it came to light that Krishan Singh Arora was not in fact in any manner connected with the firm M/s Arora Enterprises. Income tax returns and the tax statements provided to the bank were also found to be false and forged. Accordingly, FIR was registered and investigation was put into motion.

4. The contention of learned counsel for the petitioner is that from the bare perusal of the contents of the FIR, it is evident that it does not contain even a fleeting reference or whisper about the name of the petitioner in the commission of the alleged offence. From the very inception, the allegation levelled by complainant-bank is that borrower Krishan Singh Arora along with Harminderjit Kaur succeeded in obtaining loan of ₹35 lacs on the basis of forged documents and after procuring inspection report. But after 4 months of the registration of FIR, Nirmaljit Singh was brought into picture, who stated that he has overheard the conversion in between the Krishan Singh, Harminderjit Kaur and present petitioner while conspiring about the forgery of the document for obtaining loan. It was only on the basis thereof, the present petitioner was dragged in this episode. Except the statement of Nirmaljit Singh, recorded under Section 161 Cr.P.C., there is not an iota of evidence against the petitioner.

5. Learned counsel for the petitioner further contends that the petitioner is also not a beneficiary procured by principal accused. The petitioner also never introduced the principal accused to the bank either while obtaining financial assistance or subsequent thereto. There is also

nothing on the record to suggest that the petitioner played any role in forging or fabricated the loan documents as set up by Krishan Singh and Harminderjit Kaur. So, the mere statement of Nirmaljit Singh is nothing to connect the present petitioner with the alleged crime. Since the un-controverted allegation in the FIR or the complaint alleged by the bank and the evidence collected in support thereof do not disclose the commission of any offence by the petitioner, the FIR qua him is liable to be quashed and he cannot be made to suffer or face the trial unnecessarily there being no fault on his part.

6. On the other hand, learned State counsel has supported the allegations that during investigation of this case, the petitioner has been found to be a conspirator with the principal accused and it was only due to the hatching of conspiracy by the petitioner, Krishan Singh and Harinderjit Kaur have succeeded in defrauding the bank by obtaining a loan of ₹35 lacs on the basis of the aforesaid forged or fabricated documents.

7. After bestowing due consideration to the rival submissions made by learned counsel for the parties and appraisal of evidence as well as scrutinizing the report under Section 173 (2) Cr.P.C. and documents annexed with it, this Court finds full force in the submission made by learned counsel for the petitioner.

8. Undoubtedly, there is not even a slightest reference either about the name of the petitioner or that he played any role for getting the loan advanced to Krishan Singh and Harminderjit Kaur. No evidence has also been collected by the investigating agency that the petitioner introduced the principal accused/borrower to the bank officers or forged or fabricated any

document. In fact, there appears to be some conspiracy in between the bank officers/officials as well as the main culprits i.e. Krishan Singh and Harminderjit Kaur.

9. Here, it would be pertinent to mention that prior to the advancement of loan by any bank or financial institution, verification is required to be conducted by the officer concerned of the bank or the financial institution about the status of the party, as well as the genuineness of the documents or the sale deed or other documents showing the ownership of the borrower or the guarantor. But in the case in hand, even the bank officials have been exonerated, who were obliged to verify the facts before advancement of loan.

10. It is well settled that extra-ordinary power under Section 226 of the Constitution of India or the inherent powers enshrined under Section 482 of the Code of Criminal Procedure can be exercised by this Court either to prevent the abuse of process of any Court or otherwise to secure the ends of justice.

11. Taking into consideration the facts and circumstances of the case in hand, this Court is of the considered view that even the un-controverted allegation made in the FIR or the complaint, which is the foundation of the FIR and evidence collected in support thereof, do not disclose the commission of any offence of cheating or forgery or that of conspiracy. Thus, it can be said that no case is made out against the petitioner. Rather, this Court is of the considered view that the allegations unfolded in the statement of Nirmaljit Singh during the investigation of this case are absolutely absurd and inherently improbable, on the basis of which,

no prudent person can ever reach to a conclusion that there is sufficient ground for proceeding against the petitioner. He appears to have been dragged in the instant case by Nirmaljit Singh for the reasons close to his chest, especially, in the absence of any other evidence, which could have been collected by the investigating agency.

12. Thus, in the light of what has been discussed above, this Court is of the considered view that continuation of the proceedings in the instant case would be nothing but an abuse of the process of law. As such, FIR as well as all subsequent proceedings emanating therefrom are quashed qua the petitioner by way of acceptance of instant petition.

February 04, 2016 **(JASPAL SINGH)**
sonika **JUDGE**