

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

CRM-M-18651 of 2014 (O&M)

Date of decision: April 12, 2016

Malkiat Singh

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. K.S. Dhaliwal, Advocate for the petitioner.
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.
Mr. Pawan Kumar, Senior Advocate with
Mr. Abhimanyu Batra, Advocate for respondent No.2.
Mr. Sumeet Goel, Advocate for CBI.

Rajan Gupta, J.(oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.148 dated 14.09.2011, registered against the petitioner under sections 406, 420, 467, 468, 471 IPC at Police Station Sadar, Ludhiana.

Mr. Dhaliwal, learned counsel for the petitioner has submitted that an enquiry was conducted into the matter by a senior officer. He came to the conclusion that proceedings were civil in nature. Thus, no FIR could have been registered. He further submits that offence of cheating and forgery is not made out. He has relied upon judgment reported as ***Dalip Kaur & Ors. Vs. Jagnar Singh & another, 2009 (4) RCR (Criminal) 540.***

Prayer has been opposed by the State counsel. According to

him, enquiry was conducted prior to registration of FIR. There are serious allegations against the petitioner. In the investigation, he has been found guilty and challan has been presented before the competent court. Thus, no case for quashing of FIR is made out. He has referred to reply by way of affidavit of Gurpreet Singh, Assistant Commissioner of Police, Gill (Rural), Ludhiana.

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

It appears that complainant submitted an application to Director General of Police, Punjab against Malkiat Singh, Ranjit Kaur Brar, Parminder Kaur Gill and Paramjit Kaur @ Angrej Kaur. He stated that Ranjit Kaur Brar and Paramjit Kaur @ Angrej Kaur approached him representing themselves to be owners of total land measuring 18 Acres. Petitioner Malkiat Singh represented himself to be power of attorney holder of Paramjit Kaur. He informed that he also has power of attorney on behalf of Ranjit Kaur Brar and Parminder Kaur Gill. Petitioner entered into an agreement to sell dated 2.9.2005 with respondent No.2 as power of attorney of Parminder Kaur Gill etc. The land was to be sold for total consideration of Rs.6,51,00,000/-. On assurance given by the accused, respondent No.2 paid various amounts on various dates. A total amount of Rs.1,11,00,000/- were paid to the accused. As respondent No.2 asked the accused to execute the sale deed, he disclosed that a court case was pending regarding the land in question. Respondent No.2, thus, demanded his money back, but he was informed that same has been distributed amongst all the accused. At that time, respondent No.2 came

to know that he had been cheated by the petitioner and other accused. They had already entered into an agreement to sell dated 24.6.2003 with Gurdeep Singh and Harjinder Singh and petitioner was attesting witness to said agreement. In this manner, petitioner and other accused were closely related to each other and cheated the complainant and also prepared forged documents. An enquiry was conducted by Addl. Director General of Police, Crime, Punjab and FIR was registered thereafter. Petitioner and accused Parminder Kaur Gill could not be arrested. They were declared proclaimed offender vide order dated 06.01.2014.

It appears, plea of the petitioner before this court for grant of pre-arrest bail was also dismissed vide order dated 7.9.2012, passed by a coordinate bench. In view of nature of allegations, I am of the considered view that no case for interference in inherent jurisdiction of this court is made out. The plea of the petitioner that ingredients of offence alleged are not made out, is without any substance. This issue can be examined only after evidence is led before the trial court. Judgment in *Dalip Kaur's case* (supra) cannot help the case of the petitioner, as facts of the instant case are totally different. Besides, petitioner is a proclaimed offender. He has never submitted to the process of law. It is inexplicable how he can invoke the inherent jurisdiction of this court for quashing of FIR. Admittedly, challan has already been presented against him. The petition is without any merit and is hereby dismissed.

Before parting with the order, this court may notice that trial cannot proceed as none of the accused is appearing before the trial court.

In the connected matter i.e. CRM-M-15845 of 2013, an affidavit dated 15.10.2015 was filed by the Commissioner of Police, Ludhiana, wherein it was stated that all efforts to arrest the petitioner have been proved futile. On the other hand, it has been submitted on behalf of counsel for the complainant that petitioner is openly roaming about in the State. This court at this stage does not intend to express any opinion on the contents of the affidavit. It, however, expects the police to produce the accused before the concerned court within six weeks, lest it should lead to an inference that local police officials are acting in connivance with the accused. In case of its failure to do so, the entire investigation and the trial would be reduced to a farce.

A copy of this order be forwarded to Director General of Police, Punjab and Commissioner of Police, Ludhiana.

(RAJAN GUPTA)
JUDGE

April 12, 2016
'Rajpal'

Whether to be referred to reporter? Yes / No