

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

**CRM-M-23680 of 2011 (O&M)
Date of decision-26.08.2016**

Manohar Lal Lagah

...Petitioner

Vs.

State of Punjab and another

...Respondent

CORAM:- HON'BLE MR. JUSTICE A.B.CHAUDHARI

Present:- Mr. H.S.Deol, Advocate
for the petitioner.

Mr. K.S.Sidhu, DAG, Punjab.

Mr. Ramesh Sharma, Advocate for respondent No.2.

A.B.CHAUDHARI, J.

Heard learned counsel for the rival parties.

This petition is pending in this Court since 2011 to challenge the FIR No.129 dated 16.06.2011 registered under Section 420 of IPC and Section 31 of the Representation of People Act, 1950, 1951 and 1989 at Police Station Navi Baradari, District Jalandhar.

Learned counsel for the petitioner submits that the complainant is the paternal aunt of the petitioner. There is a family dispute between the father of the petitioner and the complainant over the property. According to him, she also has lodged the suit for her claim to the property. He further submits that the allegations in the FIR are to the effect that the petitioner committed cheating within the meaning of Section 420 IPC and Section 31 of the Representation of People Act by having two ration card and two voter card.

I have perused the FIR. It is stated therein that the petitioner is making money by showing two voter cards to the candidates who contest the elections and thus gets benefited monetarily. It is further stated in the FIR that he has committed fraud with the Government and the Election Commission. Perusal of the entire FIR nowhere shows that the complainant as such has suffered any legal injury.

Perusal of the FIR does not show a single ingredient of offence under Section 420 committed by the petitioner. As far as the offence under Section 31 of the Representation of People Act is concerned, the FIR can be lodged only through the concerned Election Officer or the Commission which make the inquiry first and thereafter ,may lodge the FIR.

The complainant in this case did not have locus to say that offence under Section 31 of Representation of People Act had taken place. Perusal of the FIR nowhere shows that the complainant was in any way affected.

Learned counsel for the complainant submits that the case is pending before the trial Court since the year 2011 and now stage of framing charge has come and therefore, this Court should not interfere with the FIR in question. Learned counsel for the complainant has referred to the judgement passed by this Court in **CRM-M-18392 of 2015, Sukhdeep Kaur Vs. State of Punjab and others**, delivered on 08.12.2015. However, the facts of the said judgment are clearly distinguishable.

The argument is appealing but then it cannot be forgotten that the present petition is pending in this Court since the year 2011 when the FIR

was lodged. Therefore, the petitioner cannot be blamed and driven out of the Court on the ground that the petitioner did not have the cause of action to challenge the impugned FIR at this stage because challan has been presented.

What is seen that the complainant had no locus standi or reason to file the FIR since that was the job of the Government officers. FIR in question is abuse of process of law.

At any rate, the record shows that the second voter card was cancelled prior to the lodging of the FIR on 15.09.2010. In that view of the matter, I think that present FIR lodged in 2011 will have to be quashed and consequently, the criminal case that is pending before the Magistrate as well. In the result, I make the following order:-

ORDER:-

1. CRM-M-23680 of 2011 is allowed.
2. FIR No.129 dated 16.06.2011 registered under Section 420 of IPC and Section 31 of the Representation of People Act, 1950, 1951 and 1989 at Police Station Navi Baradari, District Jalandhar, and the challan pending in the Court of Sh. Tarunjit Singh, Judicial Magistrate First Class, Jalandhar, is quashed.

August 26, 2016

vanita

(A.B.CHAUDHARI)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No