

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

CRM M-24647 of 2010

Date of decision : 09.02.2016

Jagan Nath & anr.

....Petitioners

V/s

The State of Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. D.S. Bali, Sr. Advocate with
Ms. Neha Gupta, Advocate for the petitioners.

Ms. Rajni Gupta, Addl. A.G. Punjab.

Mr. T.S. Sangha, Sr. Advocate with
Mr. H.S. Sangha, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioners have filed this petition under section 482 Cr.P.C. seeking quashing of FIR No. 10 dated 16.03.2010 registered under sections 420, 120-B IPC at police station Phul, District Bathinda.

Mr. Bali learned senior counsel for the petitioners has urged that entire dispute is of civil in nature. Registration of instant FIR is an abuse of process of law. Same has been registered only to harass the petitioners. Thus, FIR deserves to be quashed.

Plea has been opposed by learned State counsel. According to her, detailed inquiry was conducted. It was found that petitioner had cheated the complainant. On the basis of same, investigation was conducted and challan was presented before the competent court.

Mr. Sangha, learned senior counsel has vehemently opposed the plea for quashing. According to him, not only case for cheating but forgery is also made out. Petitioners took power of attorney from Kamaljit Kaur and Vidya Devi despite the fact that they were not the owners of the property. On that basis, they sold a part of the same thereby duping the complainant.

I have heard learned counsel for the parties.

FIR was lodged on the complaint of Kulwant Rai-respondent no. 2. He alleged that he was absolute owner of a shop measuring 32 ft x 14 ft on the basis decree dated August 03, 1992 executed by petitioner no. 1. Thereafter, petitioner no. 1 fraudulently obtained power of attorney from her sister Kamaljit Kaur and mother Vidya Devi on May 29, 2009. On the basis of same, petitioner no. 1 got a sale-deed registered qua 2/7 share of said shop in favour of his son Varinder Pal Singh (petitioner no. 2) despite the fact that they were not the owner of the said shop. This was done by them in order to cheat the complainant. On the basis of inquiry, instant FIR was registered and investigation ensued. Investigating agency came to the conclusion that petitioners hatched a conspiracy with each other and sold a part of shop in order to deprive the complainant of his property. In my considered view, it is not possible to arrive at a conclusion at this stage that registration of FIR is an abuse of process of law. It is yet to be seen whether charges need to be framed under any other section apart from section 420 IPC. Though it appears that at the time of issuance of notice of motion, a coordinate bench (M.M.S. Bedi, J) observed that ingredients of offence under section 420 IPC are not made out. However, it appears that it was only a prima facie view.

A perusal of affidavit filed by Randeep Singh, Deputy Superintendent of Police, Sub Division, Rampura Phul, District Bathinda shows that complaint was lodged by Kulwant Rai. He alleged that petitioner no. 1, who is his real brother, was owner of shop in question and suffered a decree in the civil court in his favour on August 03, 1992. On that basis, he became absolute owner of the said shop. Thereafter, petitioner no. 1 fraudulently obtained power of attorney from his sister Kamaljit Kaur and mother Vidya Devi and executed sale-deed in respect of the said shop in favour of his son Varinder Pal Singh (petitioner no. 2 herein). This was done by the petitioners in order to cheat the complainant.

Under the circumstances, no case for interference in inherent jurisdiction is made out. Dismissed.

February 09, 2016

Ajay

(RAJAN GUPTA)
JUDGE