

CRM-M-25269-2011 (O/M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25269-2011 (O/M)
Date of Decision : 31.5.2016

Garja Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vikas Bahl, Senior Advocate, with,
Mr. Manbir Singh Bath, Advocate, for the petitioner.

Mr. Sidakmeet Singh, Assistant A.G. Punjab.

Mr. Sumeet Goel, Retainer Counsel-cum-Special Public
Prosecutor, for CBI-respondent No. 6.

Mr. Preetinder S. Ahluwalia, Advocate,
for respondent No. 7.

Mr. Animesh Sharma, Advocate, for respondent No. 10.

1. Whether the Reporters of local newspaper may be
allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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:-

KULDIP SINGH, J.

Garja Singh son of late Shri Jeeta Singh has filed this petition under Section 482 Cr.P.C. with a prayer that the inquiry against respondent No. 7-Sanjeev Gupta, Additional Director General of Police (ADGP), Crime, Punjab, be entrusted to the Central Bureau of Investigation-respondent No. 6 with a direction to register case under the Prevention of Corruption Act for acquiring properties/assets in his name and in the name of his family members including benami properties, which are

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disproportionate to his known sources of income. It is alleged that respondent No. 7-Sanjeev Gupta is a land shark in uniform and invests his black money/corruption money in immovable properties and is doing the business of property dealing while in service and is a colonizer and has acquired properties including benami properties in the States of Punjab, Haryana, Delhi and Himachal Pradesh. Further prayer has been made for restraining Shri Sanjeev Gupta, ADGP, Crime, Punjab-respondent No. 7 from taking forcible possession of the land of the petitioner, situated in village Naya Gaon (Karoran), District SAS Nagar, Mohali, bearing khasra No. 232/1/2, with the help of police force including respondents No. 8 to 11. Further prayer has been made for restraining respondents No. 1 to 3 and 8 to 11 from harassing and implicating the petitioner and his family members in false criminal cases at the instance of respondent No. 7-Shri Sanjeev Gupta, ADGP, Crime, Punjab, so as to facilitate him in grabbing the land, belonging to the complainant-petitioner. Further prayer has been made for directing officials respondents No. 1 to 3 to provide security to the petitioner and his family members.

To shorten the controversy, suffice to state that the petitioner has levelled the allegations against Shri Sanjeev Gupta, ADGP, Crime, Punjab, and one Jasbir Singh Sandhu, who is stated to be his business partner, claiming that they are grabbing various properties and carving out colonies. The properties are being purchased by Shri Sanjeev Gupta in his name, in the name of his wife, namely, Suman Gupta and in the name his son, namely, Saurabh Gupta. Further allegations have been levelled against Jasbir Singh Sandhu and his family members, against whom no relief has

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been sought. The details of such sales are given in the petition.

The State of Punjab in its reply has taken the plea that previously Kuldip Singh, the brother of the petitioner, had approached this Court with a similar petition, bearing CRM-M-49595-2007, which was disposed of by a Division Bench of this Court, vide order dated 2.3.2009. The petition has been filed to circumvent the order dated 2.3.2009, passed by a Division Bench of this Court and the same is misuse of process of Court. The present petition has been filed on the identical grounds.

The official respondents have also taken the same stand.

The Central Bureau of Investigation-respondent No. 6, in its reply, has taken the stand that it is already very busy and the inquiry should not be entrusted to it.

The learned counsel for respondent No. 7 has vehemently argued that the present petition is motivated. Repeated complaints are being filed against respondent No. 7-Sanjeev Gupta, whenever his promotion is due. It is stated that there is dispute with some batch mates, which has already been taken note of by a Division Bench of this Court in its order, passed on 2.3.2009 in CRM-49595-M-2009. Infact, it is a war of attrition between two officers and the present petitioner is merely a proxy for the other officer.

I have heard the learned senior counsel for the petitioner, the learned State counsel, the learned Retainer Counsel-cum-Special Public Prosecutor for CBI, the learned counsel for respondent No. 7, the learned counsel for respondent No. 10 and have also gone through the file and the written submissions, filed by the State of Punjab.

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The present petition has been filed under Section 482 Cr.P.C., requesting the Court to exercise its inherent powers. According to the learned senior counsel for the petitioner, following sale deeds/transfer deeds have been executed, whereby the land has been transferred in the name of Sanjeev Gupta, IPS, ADGP, Crime, Punjab (as he was then), in the name of his wife Suman Gupta and in the name of his son Saurabh Gupta :-

Sr. No.	Dated	Name	Area	Amount
1	13/10/08 (P.64)	Sanjiv Gupta	Transfer deed of 10% share in SCO No. 118-119-120, Sector-34, Chandigarh.	Rs. 65 Lacs
2	09/01/09 (P.65)	Suman Gupta wife of Sanjiv Gupta	Transfer deed of 15% share in SCO No. 118-119-120, Sector-34, Chandigarh.	Rs. 97.50 Lacs
3	09/01/09 (P.68)	Saurabh Gupta son of Sanjiv Gupta	Transfer deed of 5% share in SCO No. 118-119-120, Sector-34, Chandigarh.	Rs. 32.50 Lacs
4	12/08/93 (P.14)	Saman Gupta wife of Sanjiv Gupta	33 K- 16 M Vill. Sultanpur, Tehsil Kharar	Rs. 1.29 Lacs
5	15/09/93 (P.62)	Sanjiv Gupta	13 K- 14 M Vill. Sultanpur, Tehsil Kharar	Rs. 94,188/-
6	15/09/93 (P.63)	Suman Gupta wife of Sanjiv Gupta	05 K- 14 M Vill. Sultanpur, Tehsil Kharar	Rs. 35,750/-
7	14/09/95 (P.60)	Sanjiv Gupta	39 K- 06 M Vill. Karoran, Tehsil Kharar	Rs. 98,250/-
8	15/09/95 (P.61)	Suman Gupta wife of Sanjiv Gupta	40 K Vill. Karoran, Tehsil Kharar	Rs. 1.00 Lac

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Sr. No.	Dated	Name	Area	Amount
9	09/01/09 (P.66)	Suman Gupta wife of Sanjiv Gupta	Transfer deed of 10% share in SCO No.-118-119-120, Sector-34, Chandigarh	Rs. 93,05,982/-
10	09/01/09 (P.67)	Suman Gupta wife of Sanjiv Gupta	Transfer deed of 10% share in SCO No.-118-119-120, Sector-34, Chandigarh	Rs. 93,05,982/-
11	26/03/11 (P.53)	Orchid Space Designs Limited, SCO No. 118-119- 120, Sector-34, Chandigarh	22 K 00 M Vill. Karoran, Tehsil Kharar	Rs. 1.80 Crores
12	21/02/11 (P.54)	Orchid Space Designs Limited, SCO No. 118-119- 120, Sector-34, Chandigarh	32 K 00 M Vill. Karoran, Tehsil Kharar	Rs. 3.20 Crores
13	26/03/11 (P.52)	Orchid Space Designs Limited, SCO No. 118-119- 120, Sector-34, Chandigarh	15 K 11.9 M Vill. Karoran, Tehsil Kharar	Rs. 1.00 Crore
14	List of Equity Share holders of Orchid Space Designs Ltd. is attached herewith and Director of Orchid is Mr. Saurabh Gupta S/o Sanjiv Gupta			
15	Annex.-R- 7/2 (P.401)	1 Kanal House in Sec. 57, Gurgaon Bearing No. 1569-P 300 Sq. Mt. Flat in South City, Gurgaon, H. No. 826, Sec.2, Panchkula.		

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The reference has also been made to some other documents, which shows that Shri Sanjeev Gupta (respondent No. 7) and his family members have some shares in many companies.

In order to see whether it is a fit case where such powers are to be exercised, this Court has to rely upon the order dated 2.3.2009 (Annexure-P-36), passed by a Division Bench of this Court in CRM No. 49595-M of 2007, titled as Kuldip Singh Versus State of Punjab and others, which was filed by Kuldip Singh, who happens to be the real brother of the present petitioner Garja Singh. Almost similar allegations were levelled in the present petition. It comes out that some of the paras have been copied from the said petition. In the said petition also, the petitioner had claimed security for him and his family members. In the said case, this Court took some steps and directed the investigating agency to enquire into the properties, acquired by the police officers and others in and around Chandigarh. The Division Bench of this Court in the said order observed as under :-

“ We may, at this stage itself deal with the question whether any case has been made out by the petitioner for a direction to the respondents to register an FIR against those named in the representation dated 15.10.2007, Annexure-P-2 to the petition. The burden of the petitioner's case in the said representation is that Shri Sanjiv Gupta, who is also a senior police officer in the State of Punjab and who happens to be the batch mate of Shri Sumedh Singh Saini, also an Inspector General of Police, serving in Punjab, is guilty of various acts of omission and commission punishable under the Prevention of Corruption Act, Indian Penal Code and the provisions of Punjab Apartment and Property Regulation Act, 1995. The

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complaint filed by the petitioner against Shri Sanjiv Gupta notwithstanding, the petitioner did not implead the said officer as a party-respondent to these proceedings nor was any cogent reason for that omission, stated in the present petition or offered at the hearing before us. That apart, the application filed by Shri Navkiran Singh, on behalf of Shri Sanjiv Gupta, IPS for addition as a party-respondent to the case, accuses the petitioner of playing in the hands of Shri Sumedh Singh Saini. The allegations made by Shri Gupta, in his application, are quite serious and are damaging for both, the petitioner as also Shri Saini. Keeping in view this state of affairs and the fact that the petitioner is alleged to be playing in the hands of one of the officers engaged in a war of attribution with another officer of the Police Department, we are not inclined to intervene in the matter in exercise of provisions of Section 482 of the Cr.P.C. Beyond that, we do not, for the present, wish to make any observation, lest the same adversely affects or prejudices one or the other contending party before us or before any other Court or Forum to which they may shift their fend. In fairness to Shri Mattewal, we must, however, mention that according to him the Government was prepared to examine allegations of any act of omission or commission made against any officer, whether in the Police Department or otherwise and take any action considered just and proper under the circumstances. We, therefore, need only say that if the petitioner has any grievance to pursue against Shri Sanjiv Gupta, including the one of the nature of registration of a case against the said officer, he shall be free to approach the Government, in which even, the Government may examine the matter on its merits and pass appropriate orders, considered just and proper.”

The Division Bench of this Court in that petition further

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observed that since the preliminary inquiry has brought forth the relevant facts and established at least prima-facie that a very large extent of land owned by the Government is under illegal occupation of different individuals in different villages, as mentioned in the report, therefore, we see no reason why the Government ought not act in the matter and constitute proper teams/task force to ensure that the matter is taken to its logical conclusion. Accordingly, some directions were given regarding task force and regarding illegal occupation of government/revenue lands. The inquiry officer appointed in the said case was directed to complete the inquiry within there months and submit its report to the Chief Secretary, Government of Punjab, who shall then monitor the progress of the task force and ensure that the government lands under the illegal occupation of different individuals are retrieved from them and restored to the Government. It was further directed that the Government shall also consider the suggestions, if any, made by the inquiry officer to enquire that there was no recurrence of acts of trespass and illegal occupation and those responsible for the same including the public servants, if any, do not go unpunished.

The learned senior counsel for the petitioner has argued that on the basis of said petition, an inquiry was conducted by Shri Hardeep Singh Dhillon, IPS, Additional Director General of Police, Administration, Punjab, and the inquiry officer submitted its inquiry report dated 1.2.2011 (Annexure-P-37), to the Chief Secretary, Government of Punjab, Chandigarh, wherein it was reported as under :-

“ After a most laborious and painstaking exercise carried

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out over a span of more than three years, the learned predecessor of the undersigned, has finally reached a conclusion in his final status report, suggesting to the W/Chief Secretary Punjab, that if the matter was to be taken to its logical conclusion, the inquiry there into needed to be conducted through the CBI. In view of these developments, the matter under consideration rests with the Govt. to evaluate and assess the merits of the suggestions made by learned predecessor of the undersigned and to take further action in the light thereof.”

It was suggested that appropriate action be taken either through Central Government Investigative Agency or through any specialized agency at the disposal of the State Government for carrying out such an exercise such as the Economic Offences Wing in the office of the Director General of Police, Punjab.

Now, the question would arise as to whether the present petitioner, who is brother of Kuldip Singh (petitioner), who had earlier filed CRM-49595-M-2007 before this Court, can be allowed to pursue the same remedy ?

The present petition was filed in the year 2011 itself. The Hon'ble Division Bench of this Court in CRM-49595-M-2007 had referred to war of attrition between two officers, who are batch mates.

I am of the view that this Court should refrain itself from exercising powers under Section 482 Cr.P.C. in such like cases. Admittedly, some properties have been acquired by respondent No. 7 and it is for the Government to see whether the same were purchased from known sources or unknown sources and whether there is any explanation for

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acquisition of said properties ? If such fishy type of petition is allowed, it will open the flood gates, wherein practically several petitions will be filed against one or the other officers, demanding inquiry by the Central Bureau of Investigation. If the complainant had got any grouse and if he feels and some criminal offence has been committed, it is always open to him to take recourse to law by approaching the concerned Judicial Magistrate (Illaqa Magistrate) with appropriate complaint and prove his allegations. This Court will refrain from allowing its shoulder to be used, so as to enable the complainant-petitioner to achieve his purpose, which his brother could not achieve. Admittedly, earlier, Kuldip Singh, brother of the present petitioner, had already approached the Division Bench of this Court by way of filing CRM-49595-M-2007 and now, the same relief cannot be sought by another family member of the said Kuldip Singh, practically on the basis of same facts. If the complainant-petitioner feels that respondent No. 7- Sanjeev Gupta has acquired some properties beyond his known sources, he can also approach the Government with appropriate complaint and the Government can enquire into the matter at its own level and take appropriate action, if some irregularity or illegality is found on the part of Shri Sanjeev Gupta, IPS.

In view of what has been discussed above, this Court is of the considered view that the present petition is nothing, but misuse of process of Court to settle personal scores with respondent No. 7, namely, Sanjeev Gupta, IPS, Additional Director General of Police, Crime, Punjab. Therefore, the prayer to get FIR registered against him and entrust the investigation to the Central Bureau of Investigation, is dismissed. So far as

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the prayer for direction against respondent No. 7 and others for restraining them from taking forcible possession of the land of the petitioner is concerned, the petitioner can always file a civil suit for permanent injunction against them and seek appropriate relief. Further, if the petitioner finds that there is threat to the life and liberty of the petitioner and his family members, he can always approach the Director General of Police, Punjab, with a request to provide security to him and his family members. In that case, the Director General of Police, Punjab, can always examine the threat perception to the life and liberty of the petitioner and his family members and pass appropriate orders. No direction by this Court is required in the matter. So far as the criminal cases are concerned, this Court has been informed that 9 FIRs have already been registered against the petitioner, some of which are prior to the present dispute, starting from 1988, when there was no dispute with the present petitioner. If such cases are registered in future, the petitioner can avail the remedy available to him under the law and no blanket direction in this regard can be issued.

As a result of the foregoing discussion, the present petition fails and is dismissed with costs quantified at Rs. 1,00,000/-, to be deposited with the Legal Services Authority of this Court within two months.

(KULDIP SINGH)
JUDGE

31.5.2016
sjks