

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-27048 of 2014 (O&M)
Date of Decision: February 24, 2016

Ajaib Singh Sandhu and others

...Petitioners

VERSUS

State of U.T., Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.P.S.Deol, Senior Advocate with
Mr.Beant Singh, Advocate
for the petitioners.

Mr.A.S.Virk, Addl. Public Prosecutor,
for the respondent-U.T. Chandigarh.

Mr.A.S.Cheema, Advocate
for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.283 dated 31.08.2011 under Sections 380, 403, 406, 420, 454 and 120-B IPC registered at Police Station Sector-17, Chandigarh and order dated 11.06.2013 along with all consequential proceedings.

Notice of motion was issued in this case and learned Addl. Public Prosecutor as well as learned counsel for respondents No.2 and 3 appeared and contested the petition.

Learned counsel for the petitioners argued that the

registration of FIR is nothing but abuse of process of law. No particulars regarding criminal trespass have been mentioned as to on which date, in which month and year and at what time the criminal trespass has taken place. Nothing has been mentioned as to at what time the theft has been committed. No articles were recovered from the present petitioners. He further argued that petitioners are also co-sharers in the property. Even if it is taken that petitioners No.1 and 2 are only life interest sharers and they have transferred the property to their daughters by transfer deed, even then no offence is made out as it is only a civil dispute. He next argued that petitioners No.1 and 2 are co-sharers in the property and just to put pressure upon the petitioners, false FIR in question has been got registered in which cancellation report was filed by the police after investigation and learned Illaqa Magistrate has asked for further investigation and now by doing further investigation, the challan has been presented.

On the other hand, learned counsel for respondents No.2 and 3 argued that the accused-petitioners have committed an offence and FIR is not liable to be quashed.

I have heard learned counsel for the parties as well as learned Addl. Public Prosecutor and have gone through the record.

The perusal of the FIR shows that petitioners No.1 Ajaib Singh Sandhu and petitioner No.2 Jaswant Kaur are the parents of private respondents No.2 and 3 i.e. Surinder Singh Sandhu and Amarjit Singh Sandhu respectively. The private respondents are NRIs and reside in foreign country. As per the FIR, petitioners No.1 and 2

are also co-sharers of 25% each but their share was only life interest and they have transferred their share in favour of petitioners No.3 and 4, who are daughters of petitioners No.1 and 2 and real sisters of respondents No.2 and 3. It is also in the FIR that property has been illegally transferred. It is also stated that sisters have illegally trespassed into the house in question and removed entire belongings of the complainants. Even value items like music system, computer, 2500 Australian Dollars, gold items which were lying in lock in the room were also stolen and misappropriated by accused.

After the investigation, the police filed the cancellation report. As the complainant raised objection, therefore, the Court asked for further investigation and now after further investigation, report under Section 173 Cr.P.C. has been filed.

It is admitted, at the time of arguments that there is no witness to the theft committed by the accused as alleged by the respondents. It is stated in the FIR that petitioners No.1 and 2, who are parents of private respondents have 25% share till life interest in the house and they were residing in the house. Even if it is taken that they have life interest and they transferred the property of their share to their daughters, even then, no offence is made out. It is a civil dispute and Civil Court is to decide whether the condition in the sale deed is legal one or what is the affect of that condition.

The perusal of the record shows that there is no evidence regarding commission of the theft. Similarly, the accused-petitioners, who have entered the house on the basis of sale/transfer deeds etc.

when the parents are also residing in that property, in no way, it can be held as criminal trespass. The perusal of the contents of the FIR shows that it is nothing but civil dispute between the parties regarding the transfer deeds and further, the registration of the FIR is question is abuse of process of law.

Therefore, finding merit in the present petition, the same is allowed. The FIR No.283 dated 31.08.2011 under Sections 380, 403, 406, 420, 454 and 120-B IPC registered at Police Station Sector-17, Chandigarh and order dated 11.06.2013 along with all consequential proceedings arising therefrom are hereby quashed.

February 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE