

**CRM-M-28000-2014 and
CRM-M-33996-2015**

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

Date of Decision: 01.12.2016

1. CRM-M-28000-2014

Nirbhay Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

AND

2. CRM-M-33996-2015

Nirbhay Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Vijay K. Jindal, Advocate,
for the petitioners in both the petitions.

Mr. Varun Sharma, AAG, Punjab.

Mr. S.S.Rangi, Advocate,
for respondent Nos.2 and 3 in both the petitions.

INDERJIT SINGH, J.

Both the above mentioned petitions are taken up together being
arisen from same FIR.

Petitioners, Nirbhay Singh, Mohinder Singh, Mukhtiar Kaur
and Charanjit Kaur have filed CRM-M-28000-2014 against respondents,
under Section 482 Cr.P.C. for quashing of FIR No.120 dated 04.07.2011,

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registered at Police Station Kotwali, Nabha, District Patiala, under Sections 419, 420, 467, 468, 471 and 120-B IPC and for quashing of the order dated 03.06.2014 passed by learned Sub Divisional Judicial Magistrate, Nabha whereby the petitioners have been summoned under Section 319 Cr.P.C.

The aforesaid petitioners have also filed CRM-M-33996-2015 against the aforesaid respondents under Section 482 Cr.P.C. for quashing of the order dated 24.09.2014 (Annexure P-7) and the charge-sheet dated 24.09.2014 (Annexure P-8) whereby charges have been framed against the present petitioners in the aforesaid FIR.

Notice of motion was issued in both these petitions. Learned State counsel put in appearance on behalf of respondent No.1-State and respondent Nos.2 and 3 also appeared through their counsel. They contested these petitions.

I have heard learned counsel for the petitioners; learned State counsel as well as learned counsel for respondent Nos.2 and 3 and have gone through the record.

From the record, I find that FIR, in the present case, has been registered on the basis of application submitted by Jagmail Singh and Sukhdev Singh. As per the allegations in FIR, the complainants entered into an agreement to sell with Mohinder Singh in respect of land measuring 24 bighas and 2 biswas. Lali @ Kala, who runs the business of property dealer, told the complainants about the deal of this land. Jagseer Singh was also his partner in the business of property dealing. Both these property dealers had

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Mohinder Singh with his entire family including the ladies of the family. This deal was done with the consent of all the family members in a very good atmosphere. It was agreed that earnest money would be given after two days and on 08.03.2011, the complainants gave Rs.25 lacs in cash as earnest money to Mohinder Singh, at Sub Division Court Complex, Nabha, in the presence of the witnesses. However, later on, the complainants came to know that Chamkaur Singh had impersonated himself as Mohinder Singh and he had thumb marked.

Challan was presented by the police against eight persons. After the examination of Jagmail Singh as CW 1, an application under Section 319 Cr.P.C. was filed by the prosecution for summoning of Mohinder Singh, Nirbhai Singh, Charanjit Kaur and Mukhtair Kaur as additional accused. Vide impugned order dated 03.06.2014, learned Sub Divisional Judicial Magistrate, Nabha summoned the aforesaid persons i.e. present petitioners on the ground that their names appeared in the statement of CW 1 and also in the FIR.

Perusal of record shows that there is no allegation against the present petitioners in the FIR. They are the family members of Mohinder Singh. The only allegation is that when the agreement was executed in the house of Mohinder Singh, other family members were present including the ladies. No role has been attributed to the present petitioners regarding any inducement. There is nothing to show any conspiracy hatched by the present petitioners. Similarly, agreement was executed by Chamkaur Singh by impersonating himself as Mohinder Singh. There is no allegation that

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Mohinder Singh was aware about this fact and he was also present in the house at that time. There is also nothing that an old person Mohinder Singh was present in the house, when the agreement was executed.

In these circumstances, it does not appear to this Court that the petitioners are involved in the commission of the offence. For summoning a person as additional accused, it should appear to the Court that from the evidence, the additional accused are also involved in the commission of the offence and they should be tried along with the main accused. The trial Court has passed the impugned summoning order dated 03.06.2014 in a routine and casual manner. The standard of proof for summoning the additional accused is somewhat more than *prima facie* case. But from the record, there is nothing to show the involvement of these persons in the commission of the offence.

As a result of above discussion, both these petitions are allowed. The impugned FIR No.120 dated 04.07.2011 (Annexure P-1), registered at Police Station Kotwali, Nabha, District Patiala, under Sections 419, 420, 467, 468, 471 and 120-B IPC, the impugned order dated 03.06.2014 (Annexure P-6) and all the subsequent proceedings arising therefrom including the order dated 24.09.2014 (Annexure P-7) and charge-sheet dated 24.09.2014 (Annexure P-8) are quashed qua the present petitioners.

01.12.2016
parveen kumar

(INDERJIT SINGH)
JUDGE

Note: Whether speaking/reasoned : Yes
Whether reportable : No