

CRM-M-31292 of 2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No. 121

CRM No.M-31292 of 2016

Date of decision: September 06, 2016

Girdhari Lal

.... Petitioner

Versus

State of Punjab & Anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vikram Satpal Anand, Advocate,
for the petitioner.

JASPAL SINGH, J.

The instant petition has been preferred by the petitioner- Girdhari Lal under Section 482 Cr.P.C. for quashing of FIR No.01, dated March 08, 2013, under Sections 420, 406 & 120-B IPC, registered at Police Station NRI Kapurthala, District Kapurthala (Punjab) along with all subsequent proceedings arising therefrom.

2. The facts giving rise to the institution of instant petition are that complainant-Harneet Singh purchased 7 acres of land @ ₹14,85,000/- from Avtar Singh s/o Sohan Singh and Sohan Singh s/o Udham Singh R/o

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Village Samrari presently residing at U.K. The complainant has alleged that he made payments to Avtar Singh and Sohan Singh from his bank through cheque and draft in India and abroad. Despite this, they gave this property after agreement to sell to other persons. Complainant made a complaint dated July 27, 2010 to Kapurthala Police, but no action has been taken. Petitioner-Gurdhari Lal is attorney holder of Avtar Singh and Sohan Singh who made fake commitment to senior police authorities.

3. Learned counsel for the petitioner has contended that petitioner has been falsely implicated in the impugned FIR. Petitioner was appointed as attorney by Avtar Singh and Sohan Singh, who are settled in England. Petitioner was made General Power of Attorney by Avtar Singh and Sohan Singh to look after pending litigations and was not authorized to enter into any land transaction. Avtar Singh and Sohan Singh were having disputes with complainant-respondent No.2 and cases are going on between them. Petitioner was neither given any power to deal with the land nor was associated with the transaction/deal in question. Petitioner appeared before the Kapurthala Police as and when called and explained the complete details. In spite of that respondent No.2, in connivance with the police officials implicated the petitioner in this case. There is no role of the petitioner of any sort in the deal because he was appointed attorney to deal with litigations, court cases and was not authorized to do any land transaction. Moreover, respondent No.2, in his complaint to the police has not mentioned the name of the petitioner. No case is made out against the petitioner. The impugned FIR is nothing but an abuse of the process of law.

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The matter in complaint, on the basis of which, the impugned FIR has been registered, is purely of civil in nature. No entrustment of any valuable security has been entrusted to the petitioner by respondent No.2 and therefore, there is no breach of trust. Petitioner is neither signatory to any document nor beneficiary. There is no allegation against the petitioner that any money was ever given to him. Name of the petitioner does not find mentioned in the original complaint, but he has been roped in second complaint in order to put pressure upon him not to pursue the litigations on behalf of Avtar Singh and Sohan Singh. In other words, the FIR has been lodged with ulterior motive to harass the petitioner who has been appointed as attorney by Avtar Singh and Sohan Singh to pursue their cases. The accusations levelled in the FIR do not make out any offence whatsoever against the petitioner.

4. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner and gone through the record available on file.

5. The instant FIR has been lodged on the basis of a complaint made by the complainant-respondent No.2 to the Senior Superintendent of Police, Kapurthala, which was marked to Superintendent of Police (Local) for further proceedings. He got conducted inquiry in the case through Inspector Satnam Singh, Station House Officer, Police Station NRI Kapurthala, District Kapurthala and Surinder Singh Deputy Superintendent of Police (D). During inquiry, it was found that Avtar Singh was abroad and his power of attorney Girdhari Lal-petitioner never joined the inquiry proceedings in spite of summoning number of times. During inquiry, it was

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found proved that Harneet Singh had given an amount of rupees four crore & five lacs to Avtar Singh in land transactions in which the connivance and involvement of petitioner was also found and petitioner did not join the inquiry even after summoning him. During inquiry, it has been proved that on the issue of money transaction, the attorney of Avtar Singh namely Girdhari Lal-petitioner and another witness Rachhpal Singh who were well versed with the money transaction and in conspiracy with each other refused from joining the inquiry, which shows that they are having hand in glove with each other. It is on the basis of aforesaid inquiry proceedings that impugned FIR under Sections 420, 406 & 120-B IPC was recommended to be registered against Avtar Singh, Sohan Singh, Rachhpal Singh and Girdhari Lal-petitioner.

6. In this view of the matter, this court is of the considered view that the allegations of collusion by petitioner and his accomplice settled in abroad has clearly been stated that a case under Sections 406 & 420 IPC has been made out against all the accused persons. It cannot be stated at this stage that dispute is purely civil in nature on the basis of allegations made in the FIR. Prima facie, there was a guilty intention to induce the complainant to part with money. The entire conduct of the petitioner and not joining the inquiry proceedings shows that a prima facie case is made out against the petitioner. It is also not a case where there is no substance in the complaint. Moreover, the police inquiry makes out a case against the petitioner and his co-accused regarding collusion and intention to cheat the complainant.

7. In R. Kalyani v. Janak C. Mehta and others, (2009) 1 SCC 516
after referring to the decisions in Hamida v. Rashid, 2007(2) R.C.R.

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(Criminal) 917; 2007 (2) Hon'ble Apex Judgments (R.A.J.) 701; (2008)1 SCC 474 & State of Orissa v. Saroj Kumar Sahoo, 2006(1) R.C.R. (Criminal) 324; (2005)13 SCC 540 this Court eventually culled out the following propositions:

“15. Propositions of law which emerge from the said decisions are:

a. The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

b. For the said purpose the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

c. Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the Court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

d. If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.”

8. In the light of what has been discussed above, this court does not find any ground to quash the impugned FIR.

9. Accordingly, instant petition stands dismissed.

September 06, 2016

Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No