

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

**CRM-M-32906 of 2014
Date of Decision: March 11, 2016**

Jaswant Singh @ Ranjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. J.S. Brar, AAG, Punjab
for respondents No.1 to 4.

Ms. Richa Mittal, Advocate
for Mr. S.K. Passi, Advocate
for respondents No. 5 and 6.

FATEH DEEP SINGH, J.

In this petition through invocation of Section 482 Cr.P.C. the petitioner Jaswant Singh @ Ranjit Singh has sought to seek exercise of the inherent powers of this Court by way of directions to the official-respondents No.1 to 4 to take action on the complaint of the petitioner against respondent No.5-Aasa Singh and his wife respondent No.6-Lakhbir Kaur who happens to be his real brother and his wife respectively.

The allegations of the petitioner falls within the small compass to the effect that he was permanent resident of village Gardiwala, Tehsil Zira, District Ferozepur and was residing in Italy and while he had come to his village in the year 2005 his brother respondent No.5-Aasa Singh procured his General Power of Attorney (Annexure

P/1) and on the strength of the same subsequently sold his share of the land measuring 16 Kanals being 16/347 share of total land measuring 347 Kanals through sale deed dated 19.9.2005 (Annexure P/2) in favour of one Manjit Singh and Lakhbir Singh and through another sale deed dated 9.5.2008 (Annexure P/3) his remaining land was also sold by his brother respondent No.5-Aasa Singh. It is alleged that he had never authorised his brother to make this alienation which was invested with falsehood and tantamounts to cheating and, therefore, he moved complaint to the Police Annexure P/6 and that as a consequence of which, his brother entered into a compromise by way of Annexure P/7 undertaking to transfer back to him the land measuring 2 kanals and 2 marlas within 15 days and when nothing transpired as a consequence of the same had sought the present relief for initiation of action against the petitioner.

Appreciating the arguments of the counsel for the parties, the own case of the petitioner clearly reflects that it was on his own act, consent had voluntarily without any coercion or undue pressure or deception has executed power of attorney in favour of his brother authorising him to sell his property besides other acts. It is the conduct of the agent on behalf of the principal which can only be adjudged by a Civil Court to the effect if the agent has exceeded the authority so given to him. Since apparently there is no allegations of cheating, fraud, misrepresentation or coercion, thus, no element of criminality is involved. Even otherwise, assuming that there has been a criminal act and conduct by the private respondents it was well within the authority of the petitioner to have moved the Court concerned in terms of Section 190 of the Cr.P.C. and upon which the Magistrate is well within his competence to enquire and take cognizance of any such offence or there could be an exercise of powers by the concerned

Magistrate by referring the matter to the Police for investigations in terms of Section 156(3) Cr.P.C.

Having regard to the settled law as has been laid down in **State of Haryana and others vs. Ch. Bhajan Lal and others** **AIR 1992 S.C. 604** that Courts need to show constraint in exercise of such powers which are to be used sparingly in rarest of rare cases where ends of justice demands so. Since the petitioner has failed to resort to the Statutory provisions which were available to him in the lowest hierarchy of justice and in the light of what has been detailed and discussed above the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 11, 2016
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