

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

(111)

CRM-M-42258-2015

Decided on: March 02, 2016.

Dharminder Singh

.... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Vishal Deep Goyal, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

The petitioner, a co-owner with complainant-respondent No.2, is alleged to have sold his land to Manjit Singh and Ranvijay Bhatti. The complainant-respondent No.2, aggrieved by the said sale, alleged that he had been impersonated and his 44 kanals of land had been sold on 22.04.2013.

Learned counsel for the petitioner submits that the petitioner has got nothing to do with the land of Manoj Kumar and he has sold his own land on 26.06.2014. The purchaser of the land only has locus standi to lodge an FIR in case he felt cheated. Counsel relies upon judgment in **Mohd. Ibrahim and others Vs. State of Bihar and another 2010 (2) Crl Law Journal 2223** in support of his contention.

Learned counsel for the petitioner has submitted that the challan has already been presented. On the basis of factual and legal situation mentioned hereinabove, the petitioner seeks quashing of FIR.

I have heard learned counsel for the petitioner and considered his contentions.

Since all the documents forming part of the report under Section 173 (2) Cr.P.C are not before this Court, it will not be appropriate for this Court to determine the culpability of the petitioner in the absence of said record.

The investigating agency has not arrayed the purchasers of the land as accused and there being no complaint on behalf of any purchaser against the petitioner, it will be open to the petitioner to contest before the trial Court at the time of consideration of charge that no offence is made out under Sections 420, 465, 467, 468, 471 and 120-B IPC in a case registered at the instance of complainant who is none else but a co-owner with the petitioner. The petitioner claims that he has got a right to sell share of the land in the capacity as a co-sharer. He has not sold the land beyond his share as such no offence is made out.

All the abovesaid contentions can be raised by the petitioner at the time of consideration of charge. In case, the said pleas are raised, the trial Court shall consider the legal and factual position on the basis of the material which forms part of report under Section 173 (2) Cr.P.C. In case, the trial Court finds that no criminal offence is made out under the relevant Sections mentioned in the FIR, it will be open to the trial Court to pass an order discharging the accused.

Disposed of with abovesaid observations.

It is expected that the trial Court shall pass a speaking order taking into consideration all the contentions raised on behalf of the petitioner.

(M.M.S. BEDI)
JUDGE

March 02, 2016
harsha