

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

CRM-M-12439 of 2017

Date of Decision: 26th September, 2017

Sukhwant Kaur and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vikram Anand, Advocate
for the petitioners.

FATEH DEEP SINGH, J.

The petitioners Sukhwant Kaur and her husband Balkar Singh have approached the jurisdiction of this Court under Section 482 Cr.P.C seeking quashment of FIR No.0145 dated 23.06.2016 under Sections 420, 120 B IPC Police Station, Rama Mandi, District Jalandhar (Annexure P/1 and all subsequent proceedings arising therefrom.

The brief facts are that FIR in question Annexure P/1 was got registered by complainant Kamlesh Rani on the brief allegations that the complainant required money for the treatment of her husband, who has suffered heart attack and it was on the advice of her acquaintance she approached petitioner No.2/accused Balkar Singh, who happens to be ASI in Police and who advanced Rs.2,50,000/- to the petitioner at the interest of 10% and kept the original sale deed of the house of the complainant with him. The complainant used to return interest every month and also started carrying on household chores at his house and during which period accused Balkar Singh alleged to have procured her signatures on blank papers and

fabricated an agreement to sell to this house in which her wife Sukhwant Kaur-petitioner No.1 played an active role and on the complaint, the present case was got registered.

The contentions of the learned counsel for the petitioner that a civil suit is pending between the parties and the present case is a counter-blast to the same and has placed reliance on Annexure P/2, whereby, the petitioner Sukhwant Kaur filed suit for possession by way of specific performance of agreement to sell in question and it is on the basis of the same has sought quashment.

Appreciating the submissions, admittedly, the criminal case in question is still at investigation stage and in view of the settled proposition of law the Courts should be slow in showing indulgence. Reliance placed on **State of Haryana and others vs. Ch. Bhajan Lal and others AIR 1992 S.C. 604** whereby, their Lordships of the Apex Court have enunciated the following principles:-

1. Where the allegations made in the First Information Report or the complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and made out a case against the accused.
4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a

- police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code of the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
 7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

The power of quashing criminal proceedings needs to be exercised very sparingly with circumspection and that too in the rarest of rare cases and Courts should not embark upon an enquiry as to the reliability or genuineness of the allegations made in the FIR or the complaint whichever may be the case and, thus, these inherent powers are not conferred to be used arbitrarily at the whims and fancies.

More so, the case being at investigation stage, the Courts need to be all the more slow as the evidence is being collected by the Investigating Agency and as has been laid down by the Hon'ble Apex Courts in ratio **M.N. Ojha and others vs. Alok Kumar Srivastva and another (2009) 9 Supreme Court** which is as under:-

“ _ _ _ _ It is true that the Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure cannot go into the truth or otherwise of the allegations and appreciate the evidence if any available on record. Normally, the High Court would not intervene in the criminal proceedings at the

preliminary stage/when the investigation/
enquiry is pending”.

at this juncture does not calls for exercise of these powers. It is only on completion of investigations truth will come out and prevail. Thus, at this stage, there is nothing tangible for this Court to show indulgence. Finding no merits, the present petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

26th September, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No