

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20871-2013 (O&M)

Date of decision: February 08, 2017.

Surinder Singh

... **Petitioner**

v.

State of Punjab and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Ashok Sharma Nabhewala, Advocate for the petitioner.

Shri Abhishek Chautala, Assistant Advocate General, Punjab.

None for respondent No.2.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith. Initially this Court had issued notice of motion by recording a reasoned order on 4.7.2013, which is reproduced below:-

“Learned counsel for the petitioner inter alia contends that the allegations were against co-accused, namely, Kuldeep Singh and Darshan Kaur with whom the complainant has entered into compromise. Said co-accused approached this Court by way of filing Criminal Misc. No. M-7940 of 2011 and FIR has been quashed qua them vide order dated 24.07.2013. Learned counsel also submits that the petitioner has no role in any manner and all allegations were against co-accused. Continuation of the proceedings against the petitioner will be misuse of process of law.

Notice of motion for 13.09.2013.”

Though served, respondent No.2 – complainant did not appear.

But then, there was no notice for final disposal as such. This Court issued another order on 9.11.2016 for final disposal which has also been served

upon respondent No.2, the contesting respondent. Still, there is no appearance for respondent No.2.

Heard learned Counsel for the parties.

There is a prayer to quash FIR No.20 dated 5.3.2011, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station City Nawanshahar, District SBS Nagar (Annexure P-1). The FIR was lodged by respondent No.2 – Jaswant Singh vide application 14.2.2011. It was stated in the FIR that the present petitioner Surinder Singh had agreed to sell his plot measuring 18 marlas at village Muzaffarpur, Nawanshahar. According to him, pursuant to the agreement, he had paid Rs.16 lacs out of Rs.18 lacs and only balance amount of Rs.2 lacs was to be paid. The sale deed was to be executed by 24.5.2011. According to him, petitioner Surinder Singh had executed a power of attorney in favour of his brother Kuldeep Singh son of Bawa Singh. But Kuldeep Singh executed sale deed in favour of his own wife Darshan Kaur, rather than Jaswant Singh-complainant, on 28.1.2011. According to him, he was thus cheated and Surinder Singh had fled to the place of his avocation in USA. He thus stated that he was cheated. Accordingly, the FIR was registered against Surinder Singh, Kuldeep Singh and his wife Darshan Kaur. Thereafter, Jaswant Singh complainant and Kuldeep Singh and his wife Darshan Kaur entered into a compromise and sought quashing of FIR which was allowed by this Court by order dated 24.7.2012 passed in CRM-M-7940-2011. It is in the above background, the petitioner seeks quashing of the impugned FIR against him.

Learned Counsel for the petitioner vehemently argued, inviting my attention to the power of attorney Annexure P-2, that reading of the power of attorney by the petitioner itself shows that it was valid only till 26.7.2010 and therefore, the power of attorney had become meaningless after the said date. At any rate, the expired power of attorney was misused by Kuldeep Singh to execute sale deed on 30.1.2011 in favour of his wife and therefore even remotely, the petitioner cannot be involved in any manner whatsoever. He then contended that the principal role of Kuldeep Singh and his wife Darshan Kaur has been narrated in the FIR by complainant Jaswant Singh as against no ingredients of offence of cheating by the present petitioner except for the alleged payment of Rs.16 lacs for which also, there is no proof of payment thereof to the petitioner. At any rate, according to him, the dispute at the most can be said to be of civil nature. Learned Counsel for the petitioner has further submitted that the complainant Jaswant Singh and Kuldeep Singh and his wife Darshan Kaur colluded with each other inasmuch as they entered into a compromise on 9.3.2011, i.e., only after four days of registration of the FIR on 5.3.2011. Consequently, he submitted that the FIR against the petitioner is an abuse of process of law.

Per contra, Learned Counsel for the State submitted that the FIR cannot be quashed since the investigation must have progressed in the present case and therefore prayed for dismissal of the petition. None appears for respondent No.2 – complainant.

I have perused the FIR (Annexure P-1) carefully. At the outset,

I find that the only attribution to the petitioner is that he had agreed to sell 18 marlas of his property at village Muzaffarpur to Jaswant Singh and had obtained an amount of Rs.16 lacs out of Rs.18 lacs from him. There is no further allegation against the petitioner about the petitioner doing any act or overt act for constitution of any of the offence registered against him in the present FIR. On the contrary, the allegations are clearly against Kuldip Singh and Darshan Kaur. In addition, it is seen that the power of attorney on record was valid only till 26.7.2011 and therefore sale deed, if at all, made by Kuldip Singh in favour of his wife Darshan Kaur in respect of the property was clearly after the expiry of the power of attorney. Thus, the entire allegations in the FIR at their face value do not make out any offence much less the offence registered against the petitioner. The fact that the complainant Jaswant Singh and Kuldip Singh and his wife Darshan Kaur got the FIR quashed against Kuldip Singh and Darshan Kaur speaks volumes. But then, without going into the other aspect of the matter, the FIR lodged against the petitioner or continuance thereof, including investigation and charge sheet pursuant to the said FIR, is nothing but the abuse of process of law as no offence at all is disclosed from the bare perusal of the FIR or on the facts stated above. In the result, present petition must be allowed. I make the following order:-

ORDER

- (i) Rule is made absolute;
- (ii) FIR No.20 dated 5.3.2011, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station City

Nawanshahar, District SBS Nagar (Annexure P-1) and all consequential proceedings arising therefrom are quashed, against the petitioner.

February 08, 2017.
kadyan

[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

VINOD KUMAR KADYAN
2017.02.22 12:21
I attest to the accuracy and
integrity of this document
Chandigarh