

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

**CRM-M-24090-2015 (O&M)
Date of Decision:18.04.2017**

Surinder Kaur Dhami

... Petitioner

Versus

State of Punjab & another

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Jasraj Singh, Advocate for the petitioner.

Mr. Deepak Garg, AAG, Punjab.

Mr. Ashish Grover, Advocate for respondent No.2.

...

TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.184, dated 25.05.2006, under Section 36 of the Punjab Apartment and Property Regulation Act, 1995, registered at Police Station Sadar Hoshiapur, District Hoshiarpur.

On the last date of hearing i.e. on 01.03.2017, counsel appearing for the petitioner had made a reference to Section 38 of the Punjab Apartment and Property Regulation Act, 1995 (hereinafter to be referred to as 'the 1995 Act') and in which compounding of any offence under the Act itself is permissible either before or after institution of the proceedings for prosecution. Stand taken by counsel was that a regularization certificate stands issued to the present petitioner as also other co-accused upon a deposit of Rs.1.76 lakhs having been made with the office of Municipal Corporation, Hoshiarpur. On the basis of such assertion, it was contended that the order of regularization of

the colony would itself tantamount to compounding of the offence.

Insofar as the impugned order dated 28.09.2010 (Annexure P-6) declaring the petitioner as proclaimed offender, it was contended that such order has been passed without complying of the mandate under Sections 105-A and 105-B of the Criminal Procedure Code. Such submission was based on the factual premise that the petitioner was residing in England.

Upon taking notice of the aforementioned submissions raised by counsel appearing for the petitioner, Mr. Ashish Grover, learned counsel representing the complainant/PUDA had been called upon to clarify as to whether fee of Rs.1.76 lakhs deposited would be viewed as a compounding fee under the provisions of the 1995 Act.

Mr. Grover, Advocate during the course of resumed hearing today states that he has written instructions from the Additional Chief Administrator, Jalandhar Development Authority that the offence is being seen as compounded in view of the fee of Rs.1.76 lakhs having been deposited towards regularization and as such, PUDA would not pursue criminal prosecution in the light of the impugned FIR. Counsel appearing for PUDA further makes a statement that in the light of such decision having been taken in principle, further necessary steps for withdrawal of the proceedings initiated against the petitioner would be taken.

In the light of such categoric stand taken on behalf of the complainant/PUDA, this Court is of the considered view that continuation of prosecution in the light of the impugned FIR would be nothing but an abuse of the process of law. A regularization certificate having already been issued in pursuance to the requisite fee of Rs.1.76 lakhs having been deposited, the basic

allegation as regards a colony having been unauthorizedly carved out does not survive.

In view of the above, prayer made in the present petition is accepted. Impugned FIR No.184, dated 25.05.2006, under Section 36 of the Punjab Apartment and Property Regulation Act, 1995, registered at Police Station Sadar Hoshiapur, District Hoshiarpur and all proceedings emanating therefrom qua the present petitioner stand quashed.

Needless to observe that under such circumstances even the order dated 28.09.2010 (Annexure P-6) declaring the petitioner as proclaimed offender would not survive.

Disposed of.

A copy of this order be given *dasti* to counsel appearing for the petitioner under the signatures of the Bench Secretary.

18.04.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |