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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.26055 of 2015
Date of Decision : 29.08.2017

Jaswant Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Ms. Gursharan K. Mann, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab for the respondents-State.

SUDIP AHLUWALIA, J. (ORAL)

In the instant petition, the petitioner has sought for directions upon respondents No.2 and 3 to take appropriate action against the culprits mentioned in the Inquiry Report dated 23rd June, 2015, submitted by respondent No.3-Assistant Commissioner of Police, South, Amritsar (Annexure P-4).

The gist of the allegations is that the petitioner had entered into a sale agreement with one Jatinder Kumar, which was actually fraudulent inasmuch as the Seller Jatinder Kumar after having taken consideration money from the petitioner, in connivance with his brother and other family members subsequently sold the disputed property to a third party. Later on, the said Jatinder Kumar delivered an amount of Rs.10,00,50,000/- by way of a cheque to the

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petitioner after a suit for specific performance was filed against him and his other family members. But even that cheque was dishonored by the Bank.

In such circumstances, the petitioner approached the Police Authorities and an inquiry was marked to respondent No.3 in terms of Section 158 of the Cr.P.C. In the final report submitted by the said respondent, it has been observed *inter alia* :-

> *"From the above stated inquiry that Jatinder Kumar and his brother Shiv Kumar and other family members in connivance and a calculated conspiracy to sell 160 acres of land area village Baringari District Hoshiarpur, executed two agreements to sell and received Rs.45 lacs and not executing the sale deed and by selling the land to some other person and in place of land they have issued a cheque of Rs.10 crores 50 thousand from Jatinder Kumar account number 88010100000686, cheque no.596680 dated 24.10.2014 Himachal Gramin Bank, Kotla District Kangra, where as the account statement Rs.7 is balance in the account, had committed fraud with the applicant Jaswant Singh, 1) Jatinder Kumar and 2) Shiv Kumar sons and 3) Pooja daughter and 4) Rama Devi wife Kishan Lal, 5) Monika wife of Shiv Kumar and Radha wife of Jatinder Kumar FIR be registered against them u/s 406/420/120-V IPC at Police Station Sultanwind and investigation be done, if it is approved then SHO P.S. Sultanwind be given direction."*

Ld. Counsel for the State however submits that admittedly

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according to the original agreement of sale, the only two concerned parties were the Seller Jatinder Kumar and the purchaser/petitioner-Jaswant Singh. Jatinder Kumar's brother-Shiv Kumar or his family members were neither parties/signatories nor even witnesses to the alleged sale agreement(s). As such the criminal liability *ex facie* falls upon the concerned signatory alone. Therefore, according to Ld. State Counsel, the FIR has since been registered only against Jatinder Kumar, as the impugned agreement does not indicate involvement of his brother or the other family members.

Ld. Counsel for the petitioner, however, submits that Jatinder Kumar's other family members were in connivance and conspiracy with him for the purpose of cheating the petitioner, even though they may not be signatories or witnesses to the impugned agreement.

In this view of the matter, the instant petition is disposed of with a direction that investigation in the FIR, lodged against accused-Jatinder Kumar shall continue and the petitioner shall be at liberty to tender appropriate material, if any in his possession to the Investigating Officer to show involvement of the other accused persons.

August 29, 2017 **(SUDIP AHLUWALIA)**
Dpr **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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