

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

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CRM-M No.2021 of 2018
Date of Decision: January 18th, 2018

Kanav Khanna

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Bipin Ghai, Senior Advocate
with Mr. Deepanshu Mehta, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the FIR as also the charge which has been framed by the Chief Judicial Magistrate, Amritsar, vide order dated 31.01.2015, against which revision preferred by the petitioner stands dismissed by the learned Additional Sessions Judge, Amritsar, vide order dated 18.10.2016.

It is the contention of learned senior counsel for the petitioner that on going through the FIR, no offence as such is made out against the petitioner and, therefore, the FIR at the first instance deserves to be quashed and in any case, he asserts that the charge which has been framed against the petitioner is without any evidence on record. Firstly the FIR does not involve the petitioner in any manner and similarly in the challan which has been presented, there is nothing against the petitioner which would indicate his connivance or involvement in any manner with regard to the offence. Civil disputes between the parties are in any case pending which is a matter of adjudication and, therefore, this matter being purely a civil matter, criminal proceedings are misuse of process of Court. He thus prays that this petition be allowed.

learned senior counsel for the petitioner and perusal of the FIR as also the impugned orders would indicate that there is indicative evidence of involvement of the petitioner because at the stage of framing of the charge, the evidence has not to be evaluated to the extent of finding the clear culpability of an accused.

It has come on record clearly that there are allegations against the petitioner earlier also which were with regard to forging of the signatures of the original owner of the property, namely, Purshotam Dass Kumar which was relatable to seeking enhancement of the power connection, which the counsel says is a case where he has been discharged. Further in the present case at various stages in the process of mutation, deliberate attempt to misinterpret the Will dated 12.06.2000 is apparent for the reason that the property belongs to Sudarshan Sewa Trust as a gift deed on 27.11.1969 was got registered by the original owner of the property, namely, Purshotam Dass Kumar, whereas this property has been projected as a personal property. The said registered gift deed although has been stated by learned senior counsel to be a subject of another FIR which has been registered against complainant-Avinash Mohindru in the present FIR but this would not make much of a difference as far as the present case is concerned for the reason that the property measuring 18 kanals 1 marla which is 9303 square yards is a Trust property.

The aspect which has been taken benefit of by the daughter of Purshotam Dass Kumar in connivance with other co-accused is that there is a Will in her favour, as has been referred to above, but there is not a mention of this property in the said Will. The obvious reason why the Will does not mention this property is that the original owner

Purshotam Dass Kumar was very well aware of the fact that the said property has ceased to be his personal property after it has been gifted to the Trust on 27.11.1969. This primarily is based upon the allegations which finds mention in the FIR and is the basis and the background for showing involvement of the other co-accused that they have connived with the daughter of Purshotam Dass Kumar. As per the investigation there was involvement of the revenue authority also as with great haste, the whole process of mutation was given effect to and this was expedited for the reason that the Trust was in the process of getting the mutation sanctioned in its favour.

As per the investigation, after the mutation has come into effect, power of attorney has been executed by Usha in the name of Madan Gopal Arora of Delhi, who is father-in-law of the present petitioner- Kanav Khanna for 18 kanals 1 marla which is the subject matter of dispute and is alleged to be of the Trust. The General Power of Attorney was witnessed by one Sukhdev Singh who is the employee of the present petitioner and is a resident of Verka, Amritsar, whereas the power of attorney was executed in Noida. The other witness obviously is the husband of Smt. Usha. It has come further that Shri Madan Gopal Arora had proceeded to sell 9 kanals and 9 marlas in the name of Sukhdev Singh who himself was a witness to the General Power of Attorney as per the allegations in the FIR. The amount for purchase of one of the property in the name of Shri Satish Kumar Jojo, who as per the allegations, is a partner of the petitioner, which fact is also disputed by the counsel in Court, had come from the petitioners firm.

The above sequence of events and the facts clearly indicate the

involvement of the petitioner and his connivance *prima facie* is made out, therefore, it cannot be said that there is nothing against the petitioner which would call for setting aside of the order framing the charge against the petitioner.

This Court, therefore, does not find any merit in the present petition and dismiss the same. However, it is made clear that any observations made hereinabove should not be taken as findings on fact and are mere observations on the basis of the allegations made against the petitioner or other co-accused.

January 18th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No