

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22348 of 2013
Date of Decision: 30.10.2018

Harnek Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vishal Deep Goyal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Vaibhav Sehgal, Advocate
for respondent no. 2-complainant.

SURINDER GUPTA, J.

Petitioner seeks quashing of FIR No. 220 dated 19.08.2006, registered at Police Station Division no. 5, Ludhiana, District Ludhiana for offences punishable under Sections 420/467/468/471/120-B of Indian Penal Code (for short 'IPC').

2. The sole ground raised by learned counsel for the petitioner while seeking quashing of the FIR is that with similar allegations complainant-respondent no. 2 earlier got registered FIR no. 121 dated 13.04.2005 at Police Station Dhanola, District Barnala for offences punishable under Sections 420/467/468/471 IPC. He also got registered another FIR regarding the same matter bearing FIR No. 129 dated 10.05.2006 at Police Station Division no. 5, Ludhiana for offences punishable under Sections 419/420/465/467/120-B IPC, which was ordered to be quashed by this Court vide order dated 30.01.2013 passed in CRM-M-

3. The short question, which arises for consideration, is as to whether FIR sought to be quashed and FIR No. 121 dated 13.09.2005 have been registered with similar allegations.

4. The petitioner has placed on file translated copy of FIR No. 220 dated 19.08.2006 as Annexure P-1, operative portion of which reads as follows:-

“.....It is requested that one plot measuring 1500 sq. foot bearing khasra no. 368, 369, khata no. 475, 491, 476, 492, jamabandi (sic for the) year 1998-99 situated in the (sic area) of (sic village) Burada, Hadbast no. 168, Abadi Number Colony near Kartar Nagar, Tehsil and District Ludhiana and its owner is Sohan Singh son of Inder son of Raman Singh, resident of Mandiani Kalan, Ludhiana. That in place of original owner, by impersonating Sohan Singh son of Inder Singh son of Sukhan Singh, resident of Bhalwad District Sangrur, on 19.04.2001, Harnek Singh, Harchand Singh and Sukhdev Singh in connivance with each other forged a general power of attorney no. 10/4 in the office of Sub Registrar Dhanola, District Sangrur. This forged Sohan Singh, village Bhadlawad was verified by Nambardar Harpal Singh. Photocopy of his affidavit and general power of attorney is attached herewith. That on 08.08.2003, this forged Sohan Singh son of Inder Singh son of Sukhan Singh, resident of Bhadlawad, District Sangrur had died due to electric shock, whose death certificate is attached herewith. That on 07.10.2003, Harnek Singh son of Asra Singh, after death of

general power of attorney executor, got executed gift deed in his name. On the basis of forged general attorney and forged gift deed, Harnek Singh executed agreement to sell with Jasbir Singh son of Santokh Singh, resident of 337, Bharat Nagar, Ludhiana but he did not execute sale deed. On the basis of same, FIR no. 18 dated 12.01.2005 was registered against Harnek Singh at Division No. 5 and its challan has already presented in the Court. On 13.09.2005, due to execution of forged general attorney and forged gift deed, FIR no. 121 was registered under above offence at Police Station Dhanola and its challan has already presented in the court. That now I came to know that Harnek Singh, on the basis of this forged general attorney and gift deed, got executed sale deed of 50 sq. feet from this area in favour of Barinder Singh son of Sulakhan Singh, vide wasika no. 20991 dated 10.03.2005. Its duly attested photocopy is attached herewith. Therefore, Harnek Singh and Barinder Singh son of Sulakhan Singh have also committed cheating and fraud. Legal action may kindly be taken against them.....”

5. Though, FIR No. 121 dated 13.09.2005 has not been produced on file but from the copy of judgment passed by learned Judicial Magistrate Ist Class, Barnala in case FIR No. 121 dated 13.09.2005, which has been supplied during course of arguments, facts of other FIR can be taken from para 2 of the judgment, which are as follows:-

“2. Briefly, the prosecution story is that an application was filed by complainant Jasbir Singh son of Santokh Singh

resident of Ludhiana before SSP Barnaal against above said accused persons. The complainant stated in his application that the accused persons have formed a gang and they are land mafias. The accused persons prepare forged documents and are cheating other persons in conspiracy with each other. The said accused persons prepared a forged general power of attorney no. 10/4 on 19.04.2001 at Sub-Tehsil Barnala District Sangrur. The accused persons executed a false general power of attorney of Sohan Singh son of Inder Singh son of Thaman Singh residents of village Mandiani, Tehsil Jagraon District Ludhiana by impersonating Sohan Singh son of Inder Singh son of Sukhan Singh residents of village Badalwad Tehsil Barnala, in his place. The said general power of attorney was executed in favour of accused Harchand Singh and Namberdar Harpal Singh attested the said Sohan Singh son of Inder Singh son of Sukhan Singh to be Sohan Singh son of Inder Singh son of Thaman Singh. Thereafter, said accused Harchand Singh executed a gift deed in favour of Harnek Singh accused on 07.10.2003 whereas Sohan Singh son of Inder Singh son of Thaman Singh had died on 08.08.2003. In lieu of said gift deed accused Harnek Singh has promised to sell the property to some other persons.....”

6.

Perusal of allegations in the present FIR and in FIR no. 121

dated 13.09.2005 show that it was registered on allegations regarding fabrication of power of attorney by producing a fake person in place of Sohan Singh son of Inder Singh son of Thaman Singh, resident of Mandiani Kalan and that on the basis of power of attorney after death of real Sohan Singh on 07.10.2003, a gift deed was got executed by petitioner-Harneek Singh in his favour. In the present FIR, complainant has alleged that on the basis of gift deed, 50 sq. ft. of the land belonging to Sohan Singh son of Inder Singh son of Thaman Singh resident of Mandiani Kalan was sold to Barinder Singh son of Sulakhan Singh vide sale deed no. 20991 dated 10.03.2005. Sale deed dated 10.03.2005 had already been executed before registration of FIR No. 121 dated 13.09.2005, as such, there was no new cause of action with the complainant to lodge another FIR. FIR bearing no. 129 dated 10.05.2006 with similar allegations had already been ordered to be quashed, as such, instant FIR on the same cause of action can not be sustained.

7. For the reasons as discussed above, the instant petition is allowed and impugned FIR no. 220 dated 19.08.2006 (Annexure P-1), registered for offences punishable under Sections 420/467/468/471/120-B IPC, at Police Station Division no. 5, Ludhiana along with all consequential proceedings arising therefrom, qua petitioners, is quashed.

October 30, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No