

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

CRM-M No.30565 of 2013

Date of decision: 29th November, 2018

Sukhdev Singh & another

... Petitioners

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vipin Mahajan, Advocate for the petitioners.

Mr. Saurav Khurana, Dy. Advocate General, Punjab
for respondent No.1/State.

Mr. Deepak Arora, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

The petitioners, Sukhdev Singh and Joginder Singh, who are accused in case bearing FIR No.89 dated 23.09.2012 under Sections 420, 34 IPC registered at Police Station Kalanaur, District Gurdaspur (Annexure P1), by filing the present petition under Section 482 Cr.P.C. have sought quashment of the FIR and all consequences and proceedings arising therefrom.

Upon hearing Mr. Vipin Mahajan, Advocate for the petitioners; Mr. Saurav Khurana, Dy. Advocate General, Punjab representing respondent No.1/State; Mr. Deepak Arora, Advocate on behalf of respondent No.2 and on perusal of the records.

Before venturing into the very intricacies of the present case, it is very much necessary and essential to highlight the factual

background of this dispute between the parties. The present complainant Partap Singh happens to be the son of one Baldev Singh son of Chanan Singh son of late Maan Singh. Chanan Singh aforesaid was the original owner of the land, subject matter of this present dispute. Chanan Singh had given General Power of Attorney pertaining to this land to his son Baldev Singh, father of the complainant. It was on the strength of this authorization, Baldev Singh executed a registered sale deed dated 10.06.1986 in respect of 5 kanals 8 marlas of this land in favour of his wife Darshan Kaur, mother of the complainant. By virtue of another registered sale deed dated 10.06.1986, Baldev Singh transferred by sale another chunk of this land measuring 4 kanals in favour of his grand-son, present complainant Partap Singh. Aggrieved over this, the principal (Chanan Singh) filed a suit against Baldev Singh, Darshan Kaur and the present complainant Partap Singh. Admittedly, the suit of the plaintiff Chanan Singh stood dismissed by the trial Court. However, an appeal was preferred by the unsuccessful plaintiff which stood allowed and as on date, as has been canvassed before this Court, an appeal is pending before this Court wherein order of status quo has been passed. It needs to be reiterated that during the course of events, the above said Chanan Singh and Sukhdev Singh through sale deed dated 10.11.2005 had sold land in favour of the present petitioners Sukhdev Singh and Joginder Singh. It was on the complaint of Partap Singh above said, the allegations were

levelled that since through registered sale deed, the agent of the principal for a valuable consideration had sold the land in favour of the complainant and his mother and that the sale in favour of the present petitioners was a mala fide and criminal act of cheating and fraud to them and hence, the case was got registered against Sukhdev Singh, Joginder Singh, Sukhdev Singh Pannu Advocate, Lakhwinder Singh and Baldev Singh; out of whom the present accused petitioners have come up before this Court. It is essential to mention here that Chanan Singh abovesaid, owner of the land in dispute, admittedly as per the arguments of the two sides, has died on 14.08.2006.

In the light of what has been argued before this Court and could not be displaced by any of the sides that the suit of Chanan Singh abovesaid was dismissed by the trial Court, however, appeal against the said findings went in favour of the plaintiff appellant and against which findings, the parties are before this Court in the appeal which is still pending. Thus, in the light of this divergent expression of opinions throughout by the two courts below, wherein as is stated before this Court, question of authority of the attorney Baldev Singh son of Chanan Singh abovesaid and the legal validity and enforceability of the two sale deeds, both dated 10.06.1986 are under challenge and therefore, it would be too preposterous to form any such opinion in the present petition over the very legality of such a transaction, whether these transactions were

valid in the eyes of law or were gross misuse of the authority that the principal has given to his agent. As long as these questions of facts which are much relevant to the criminal case, in the light of their overlapping, it cannot be embarked upon by this Court if there has been commission of an illegal act. More so, in the light of settled proposition that this Court in the exercise of its powers under Section 482 Cr.P.C., is not supposed to adduce evidence and has only to adjudge on the basis of investigations that has been brought about. This Court places reliance on '**State of Haryana and others v. Ch. Bhajan Lal and others**' 1992 AIR SC 604, wherein categories of cases, where such inherent powers under Section 482 Cr.P.C. can be exercised, have been enumerated illustratively and not exhaustively and which are as below:-

- (1) Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;
- (2) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on

the accused and with a view to spite him due to private and personal grudge.

Thus, in the light of this proposition of law, the learned counsel for the petitioners could not convince this Court how the case of the petitioners stands covered under these categories. More so, it could not be brought about before this Court on behalf of the petitioners how it has been necessitated for this Court to exercise such powers to meet the ends of justice or to undo injustice to the petitioners. Considering all these aspects, this Court is not inclined to allow the petition which is devoid of any merit and stands dismissed.

Trial Court is directed to proceed ahead into the matter in accordance with the provisions of law. Necessary intimation to this effect be sent to the Court concerned.

(FATEH DEEP SINGH)
JUDGE

November 29, 2018

rps

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No