

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

204

**CRM-M-40942-2013 (O&M)
Date of Decision : 06.10.2018**

Bhura Ram

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Mr. A.K.Walia, Advocate for the petitioner.
Mr.Luvinder Sofat, AAG, Punjab.

P.B. BAJANTHRI, J.(ORAL)

In the instant petition, petitioner has sought for quashing of FIR No. 138 dated 27.11.2009 under Sections 420, 467, 468, 471, 120-B IPC, Police Station Bhikhi (Annexure P-1) along with all consequential proceedings including the impugned summoning order dated 16.02.2011 passed under Section 319 Cr.P.C. (Annexure P-5), impugned charge-sheet dated 19.12.2011 (Annexure P-7) and the impugned revisional order dated 04.06.2013 (Annexure P-8).

2. Learned counsel for the petitioner submitted that pursuant to filing of FIR, police-competent authority held inquiry and found that petitioner is innocent vide Annexure P-2 and P-3, respectively. When matter stood thus, application under Section 319 Cr.P.C. was presented on 15.12.2010 insofar as incorporating the petitioner's name as co-accused in FIR No.138, dated 27.11.2009, Police Station Bhikhi. Application under Section 319 Cr.P.C. was allowed on 16.02.2011 (Annexure P-5) and charge

sheet was filed on 19.12.2011. Petitioner aggrieved by the framing of charge sheet dated 19.12.2011 filed revision before revisional court and suffered an order dated 04.06.2013 (Annexure P-8). Thus, present petition in quashing of the FIR and consequential order i.e. summoning order and revisional order.

3. Learned counsel for the petitioner submitted that allegations against the petitioner is that he had issued map and approved the same in respect of issuing electrical connection in land stated to have been owned by Ajaib Singh or Ajaib Singh was cultivating the panchayat land. Learned counsel for the petitioner submitted that there is no substance or any material has been taken into consideration while ordering summoning so also in the charge sheet what was the exact allegation to what extent he has committed offence. Allegation stated in FIR is not forthcoming. He also pointed out that land dispute relates to the co-accused Ajaib Singh and Gram Panchayat which was pending consideration in CWP No. 4604 of 2013 and it was decided with the following observation:-

“It was specifically admitted before the Commissioner, Faridkot Division, Faridkot that the petitioner was sitting in the land in dispute which is under exchange and specific statement was given by the Gram Panchayat that let the order of ejectment, passed against the petitioner, be not acted upon. Appeal filed by the petitioner was disposed of. It is proved on record that the Gram Panchayat has exchanged the land with the petitioner, school has been constructed therein. In earlier litigation also, a specific undertaking was given to that effect and it was specifically admitted that the petitioner has taken the land in exchange from the Gram Panchayat. It is very surprising that the Gram Panchayat has again started eviction proceedings

against the petitioner. It is totally arbitrary and malafide. It appears that may be on account of some party faction, this litigation has been started.

Under the circumstances, we allow this writ petition and the orders under challenge are set aside. Directions are issued to the Gram Panchayat to send resolution passed to exchange land for formal approval to the Government. In view of a fact that school already stood constructed in the land owned by the petitioner, it is expected that formal approval shall be granted without any hitch.”

4. On the other hand, learned State counsel while resisting contentions raised by learned counsel for the petitioner submitted that as long as Division Bench order dated 21.08.2013 is not finalized by the Government insofar as approving exchange of land with Ajaib Singh and Gram Panchayat, matter requires to be examined. It was also contended that at the best this court can set aside the summoning and revisional orders while remanding the matter.

5. Heard learned counsel for the parties.

6. Perusal of the police report (Annexures P-2 and P-3) it is evident that petitioner has been held innocent having regard to the factual aspect relating to revenue records as well as co-accused Ajaib Singh who is stated to have been cultivating the land and who had applied for electrical connection to stated to be disputed land. There is no infirmity in preparation and approving the said map for the purpose of electrical connection pursuant to co-accused Ajaib Singh's application. There is no material shown in the summoning order as well as charge sheet read with revisional order dated 04.06.2013 so as to implicate petitioner that he had committed offences cited in the FIR. That apart in respect of land dispute whether it

stands in the name of Ajaib Singh or in Panchayat has been decided by this court vide Annexure P-9 dated 21.08.2013 (cited supra). It is evident that school building has been constructed on the co-accused Ajaib Singh's land. Even though certain formalities has not been completed to the extent of not taking approval of the Government for the purpose of exchange of land. Above ratification is permissible thus, Division Bench of this court has directed to take necessary approval from the Government. Said decision supports the petitioner's case insofar as non-involvement of the petitioner in offences stated in the FIR. Thus petitioner has made out prima facie case to quash FIR qua petitioner, summoning order and revisional order. Accordingly, FIR No. 138 dated 27.11.2009 under Sections 420, 467, 468, 471, 120-B IPC, Police Station Bhikhi (Annexure P-1) along with all consequential proceedings including the impugned summoning order dated 16.02.2011 passed under Section 319 Cr.P.C. (Annexure P-5), impugned charge-sheet dated 19.12.2011 (Annexure P-7) and the impugned revisional order dated 04.06.2013 (Annexure P-8) are set aside qua petitioner.

7. With the above observation, petition stands allowed.

(P.B.BAJANTHRI)
JUDGE

06.10.2018

pooja saini

Whether speaking/reasoned?

Yes/ No

Whether reportable?

Yes / No