

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-14.02.2019

1. CRM-M-17488-2017

Kuldeep Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

2. CRM-M-34187-2017

Kuldeep Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. HPS Ghuman, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. R.S.Randhawa, Advocate for respondent No.3.

MANOJ BAJAJ, J.

This judgment will dispose off the above mentioned two petitions i.e. CRM-M-17488-2017, titled as “Kuldeep Kaur Vs. State of Punjab and others” and CRM-M-34187-2017, titled as “Kuldeep Kaur Vs. State of Punjab and others”. However, the facts are being extracted from CRM-M-17488-2017.

Kuldeep Kaur has filed this petition under Section 482 of Code of Criminal Procedure for issuance of directions to respondents to pay the

compensation to the tune of Rs.10 lakhs for implicating her in FIR No.200 dated 08.10.2016 registered under Section 306 of Indian Penal Code (in short 'IPC') at Police Station Sahnewal, Ludhiana City.

The facts in brief leading to the present petition are noticed here below:-

Complainant, Gurtej Singh (respondent No.3, herein) gave an application dated 27.09.2016 against Harpreet Singh son of late Parminder Singh and Kuldeep Kaur, wherein it was alleged that on account of harassment meted out to Krishan Pal Singh (father of the complainant), he had committed suicide. As per the allegations, the accused entered into an agreement to sell, with the father of the complainant for sale of kothi measuring 2000 square yards situated at New Model Town, Sahnewal, District Ludhiana. A sum of Rs.2,23,00,000/- out of the total sale consideration of Rs.2,47,00,000/- was paid in the presence of the witnesses and receipt was issued to the father of the complainant. At that stage, the possession of the property was given to Krishan Pal Singh. According to the allegations, the deal was struck two years back and the amount of Rs.2,23,00,000/- stood paid to the accused in installments, however, the request of the purchaser to get the sale deed registered upon receiving the balance amount was put off. The father of the complainant got worried and felt cheated as the sum of Rs.2,23,00,000/- stood usurped by the accused. It was alleged that the accused persons started threatening the father of the complainant. All the requests of the father of the complainant went in vain and the accused persons refused to get the sale deed executed and conveyed

him that neither the amount will be returned nor the sale deed would be executed. According to the complaint, the father of the complainant was forced to commit suicide and for that the accused persons were responsible.

After registration of the case, investigation was carried out and the statement of witnesses were also recorded. The petitioner was arrested in this case on 23.10.2016 and was released on bail vide order dated 15.11.2016 passed by this Court in CRM-M-40168-2016 (Annexure P-4).

It is the case set up by the petitioner that agreement to sell dated 18.09.2013 (Annexure P-1) was entered into by Harpreet Singh and Gurpreet Singh sons of late Parminder Singh with Krishanpal Singh (deceased father of the complainant). Against the total sale consideration of Rs.2,47,00,000/- a sum of Rs.55 lakhs was paid as earnest money by Krishanpal Singh and the date of execution of sale deed was settled as 20.03.2013. According to the petitioner, the receipt dated 11.02.2014 (Annexure P-3) is a forged document. Besides, it is pleaded that Harpreet Singh came on number of occasions to India for execution of sale deed, however, Krishanpal Singh could not arrange funds.

The petitioner has placed reliance upon the order dated 14.03.2017 (Annexure P-5) passed by this Court, whereby her petition for quashing of FIR No.200 dated 08.10.2016 was allowed. It is further pleaded that the complainant has filed a civil suit for specific performance of the agreement to sell dated 18.09.2013. It is further mentioned that the accused persons (respondent No.3) wanted to usurp the kothi of the petitioner and for that purpose they committed theft in the above said kothi and on her

complaint, FIR No.0002 dated 19.01.2017 (Annexure P-7) was registered against the accused persons (respondent No.3) under Sections 380, 427, 451, 511 and 120-B of IPC at Police Station NRI, District Ludhiana City.

In the end, it is prayed that the petitioner is entitled to compensation as her liberty was curtailed due to registration of criminal case against her, quashing of which took five long months and she remained behind bars for one month, due to the acts of the complainant and police officials.

In response to the petition, reply has been filed on behalf of respondent Nos.1 and 2 by way of affidavit of PPS, Assistant Commissioner of Police, Sahnewal, Police Commissionerate, Ludhiana. It is mentioned that the FIR was registered after holding the inquiry into the complaint and after taking cognizance, the investigation was carried out. It is not disputed that Kuldeep Kaur was arrested pursuant to the FIR and after her production before the Court she was sent to judicial remand till 05.11.2016 at Women Central Jail, Ludhiana. It is admitted that the petitioner filed a petition bearing No.CRM-M-42912-2016 for quashing of the FIR during the pendency of the investigation and this Court vide order dated 14.03.2017 quashed the FIR against the petitioner. It is further pleaded that the property in question which was to be sold to the deceased was in joint ownership and therefore, could not have been sold without knowledge of the petitioner. During the investigation, the petitioner was found to have played an active role in the commission of the offences and accordingly she was arraigned as accused.

Learned counsel for the parties have been heard and with their assistance I have gone through the case file carefully.

Learned counsel for the petitioner has contended that the petitioner was falsely implicated in this case as the alleged agreement was not signed by the petitioner and for that he placed reliance upon the decision dated 14.03.2017 whereby the FIR against the petitioner was quashed.

The decision dated 14.03.2017 passed in CRM-M-42912-2016 (Annexure P-5) has been perused. The FIR was quashed considering the advanced age of the petitioner and this Court has refrained from making any observation against those who allegedly entered into an agreement with deceased-Krishanpal Singh. This Court proceeded to observe that there is no reason as to why criminal proceedings should continue against the petitioner and the FIR qua petitioner was quashed.

The claim of the petitioner in the present case is that she was falsely implicated, whereas there is nothing on record to suggest that the petitioner was falsely implicated. Even this Court never returned any such finding holding the FIR as false, in the decision dated 14.03.2017, whereby the FIR was quashed.

Not only this, the petitioner never made any prayer for grant of compensation to her when the petition bearing No.CRM-M-42912-2016 was filed by her for quashing of the FIR. It needs to be noticed here that the previous petition was filed at a stage when the investigation was pending. Though the investigation suggested involvement of petitioner, however, the FIR was quashed qua the petitioner only on 14.03.2017 and at that stage

investigation was pending. Besides, it is important to note here that after conclusion of the investigation, challan stands filed against the sons of the petitioner, namely, Harpreet Singh and Gurpreet Singh. The petition is founded on disputed facts, particularly when the complainant has already filed a civil suit seeking execution of the agreement to sell wherein petitioner is arrayed as defendant and affixed a court fee of Rs.5,60,100/-. At the stage of the information to the Police, only the *prima facie* case is to be seen and when the case was at the stage of investigation, it cannot be said that a person has been indicted falsely.

Admittedly, the petitioner was not put to any prosecution much less any malicious, therefore, the petition is completely misplaced and is without any merit. At this stage, learned counsel for the petitioner has placed reliance on the judgment passed by Hon'ble the Supreme Court titled as ***“Daulat Ram Vs. State of Haryana” 1996 (1) R.C.R.(Criminal) 325*** wherein the petitioner had challenged the judgment of conviction before the Supreme Court in a case under Section 25 of Arms Act, 1959. After examination of evidence of the prosecution and defence, Hon'ble Supreme Court proceeded to acquit the convict with the observation that the petitioner was falsely implicated and granted compensation of Rs.5,000/-. The judgment is not applicable in the facts and circumstances of this case, particularly for the reason that in the present case, it was only cognizance taken by Police and the trial had not commenced. Besides, there is no finding by this Court while quashing the FIR that the case against the petitioner is false. Though the FIR stands quashed but at that stage also the

possibility of declaring the petitioner innocent after conclusion of investigation was alive.

Learned counsel further placed reliance on judgment passed by this Court in CRA-S-1849-SB-2017, titled as “***Kuldeep Singh @ Bhola Vs. State of Punjab***” and a judgment passed by Hon'ble Bombay High Court in Criminal Writ Petition No.103-2002 titled as “***Sharda Narayan Bhongade Vs. Surendra Jagmohan Pali and another***”2003 (3) R.C.R (Criminal) 106. These judgments are also not applicable as the subject matter before the Courts was judgment of conviction and order of discharge. These two stages are distinct from the stage of cognizance by Police.

Resultantly, no ground is made out for allowing the claim of the petitioner for grant of compensation.

CRM-M-34187-2017

This petition has been filed with a prayer for issuance of direction to respondent No.2 for proceeding against respondent No.4, namely, Gurtej Singh (complainant) under Section 182 of Indian Penal Code (in short 'IPC') for having lodged false FIR No.200 dated 08.10.2016 registered under Section 306 IPC at Police Station Sahnewal, District Ludhiana.

At this stage, it is necessary to peruse Section 182 IPC which is extracted below:-

182. False information, with intent to cause public servant to use his lawful power to the injury of another person.—Whoever gives to any public servant any information which he knows or believes to be false,

intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

A reading of the above indicates that above provisions are attracted when a person gives a false information with an intention to cause use of lawful power of the public servant (officer) thereby causing injury to some other person. The ingredients to constitute offence are:-

- (i) a false information is given intentionally to public servant;
- (ii) the person who gives the information has the knowledge at the time of giving the information that the said information is false;
- (iii) the public servant would likely act or omit to act upon such information and in case the true facts would known to the said officer, he would not have acted or omitted to act;
- (iv) lastly, the object of this information is to cause injury to some other person.

The examination of the facts and circumstances of the

case in hand would reveal that the necessary ingredients to constitute the offence are not present, as the FIR in question was thoroughly investigated and final report stands filed against the accused. The trial in that regard is in progress. It is apparent that the expression 'false information' must be construed to mean "absolutely false". Merely because FIR qua one of the accused was quashed and maintained in respect of the others would not mean that the complainant has committed offence punishable under Section 182 IPC.

Apart from above, the prayer made in this petition is not maintainable for the reason that the proceedings under Section 182 IPC can only be initiated by the Officer (Public Servant) who had received the complaint alleged to be false as contemplated under Section 195 Cr.P.C. Admittedly, the officer had no occasion to arrive at the required conclusion of receiving false information. In the present case, it is conceded by learned counsel for the petitioner that trial in respect of the FIR is in progress and resultantly, this Court has no hesitation in holding that the information allegedly given by the complainant cannot be treated as false.

In view of the above, no ground is made out for issuance of directions to initiate the proceedings under Section 182 IPC.

Both, petitions are dismissed.

14.02.2019

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No