

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-20566 of 2016 (O&M)

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Date of decision:28.03.2019

Shavinder Kaur and another

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. Jagdeep S. Virk, Advocate for the petitioners.

Ms. Monika Jalota, Deputy Advocate General, Punjab for
the respondent-State.

None for complainant-respondent No.2.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of criminal complaint No.1816 of 09.07.2014 (Annexure-P.2) titled as “Harbans Lal Vs. State of Punjab and others”; summoning order dated 09.07.2015 (Annexure-P.4) passed by learned Judicial Magistrate Ist Class, Bathinda and all subsequent proceedings arising thereof.

Notice of motion was issued in this case.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

From the record, I find that Harbans Lal filed complaint under Section 156(3) Cr.P.C. for registration of FIR against the accused persons for the offences under Sections 420, 467, 468, 471 and 120-B IPC etc. or

under the relevant provisions of IPC etc. It has been mainly stated in the complaint that the complainant is aggrieved by highhandedness on the part of the accused. Present is a case where fraud was committed on the day when Manmeet Singh accused has fraudulently got transferred 229 Sq. yards land by showing as 489 Sq. yards in favour of his mother Smt. Shavinder Kaur so that they can take possession of the land in front of their house including the area in front of complainant's shop, which is a street land and thereafter, the same could be sold by crores of rupees. In fact, the fraud was committed with the complainant and when the complainant came to know about the same, an FIR was registered by the complainant against accused No.4 and 5 by asserting that the aforesaid transaction is a tampered transaction in which even Tehsildar and accused No.4 and 5 were not having any title of the property to which extent the property was transferred/sold. Now the sale deed has been got rectified in league and collusion with Naib Tehsildar. As per law, there was no power with the Naib Tehsildar to rectify sale deed and the power of 'Farad Badar' for rectification of entries is with the civil Court and not with the revenue officials. This fact of the matter was duly inquired by ASP City-2 and Traffic, Bathinda. It is also in the complaint that on coming to know about this, he got lodged FIR No.104 dated 6.9.2011 for the offences under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Civil Lines, Bathinda against the aforesaid Manmeet Singh. Manmeet Singh by giving 'Chakma' to the Police remained proclaimed offender for one year and on 5.9.2012, the Advocate of aforesaid Manmeet Singh appeared in the Court and this case was also presented in the Court and thereafter, during the pendency of the case, they committed

another offence that in collusion with Shri Subhash Mittal, Naib Tehsildar, the registry of 489 Sq. yards was rectified by 'Tatima' Registry of 229 Sq. yards after 8 years. The complainant also filed Criminal Miscellaneous No.M-15997 of 2014 before this Court, which on 13.5.2014 ordered that the petitioner through the present petition filed under Section 482 Cr.P.C. has prayed for issuance of direction to official respondents to register FIR against the private respondents. With these averments this complaint has been filed.

At the time of arguments, learned counsel for the petitioners brought it to my notice that earlier on 6.9.2011, an FIR was got registered by Harbans Lal against Manmeet Singh on the similar facts that a fraud has been committed as sale deed was for 229 Sq. yards and it was mentioned in the sale deed that it was for 489 Sq. yards etc. Learned counsel for the petitioners brought it to my notice that the order passed by this Court in Cr. Misc. No.M-1407 of 2013 decided on 26.7.2016, in which FIR No.104 dated 6.9.2011 registered for the offences under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Civil Lines, Bathinda and all consequential proceedings were quashed in which this Court has held that when within a short time an application has been filed for correction, then there was no occasion to have lodged the FIR after more than six years without taking this fact into consideration. It has also been held in that Criminal Misc. No.M-1407 of 2013 that there is no allegation that any encroachment has been made by the petitioners over any government land.

When on the similar facts earlier FIR has been registered, which has been quashed by this Court, therefore, the filing of the complaint

on the similar facts by the complainant is nothing but an abuse of the process of law which amounts to miscarriage of justice. Otherwise also, whatever mistake has taken place in the sale deed that has already been corrected.

Therefore, from the above, I find merit in the present petition and the same is allowed. Criminal complaint No.1816 of 09.07.2014 (Annexure-P.2) titled as “Harbans Lal Vs. State of Punjab and others”; summoning order dated 09.07.2015 (Annexure-P.4) passed by learned Judicial Magistrate Ist Class, Bathinda and all subsequent proceedings arising out of the same are hereby quashed.

March 28, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No