

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3915-2018(O&M)

Date of decision: 19.12. 2019

Suresh Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Anil Kumar Lamdharia, Advocate for the petitioner

Mr. S.P.S.Tinna, Addl. AG, Punjab

ANIL KSHETARPAL, J. (ORAL)

Present petition has been filed with the following substantive prayers:-

“It is therefore respectfully prayed to for entrustment of the complaint dated 13.7.2015 (Annexure P-1) to the some independent agency for proper and appropriate enquiry. As official respondents no. 1 & 2 fail to register the FIR against accused persons mentioned in the complainant dated 13.7.2015.

Further to issuance of directions to respondents 2 to complete the investigation of the case as per the provisions of section 154 Cr.P.C.”

Pursuant to the notice, reply has been filed by way of an affidavit of Additional Superintendent of Police, Fatehgarh Sahib in which it has been stated as under:-

“1. That the petitioner filed application No.2229/Peshi, dated 13.7.2015 (Annexure P-1) before the respondent No.2, wherein he alleged that he has been cheated by Gurvind Arora and Parvind Arora alias Bagga sons of Surinder Arora and one Gurjit Singh alias Sonu and that these persons pocketed his alleged amount of Rs.8,30,000/- on the pretext of sending him to abroad. This application was marked by the respondent No.2 to the Incharge, Economic Offence Wing, Fatehgarh Sahib for inquiry. During inquiry, the petitioner could not substantiate the allegations made in the application and it was found that in fact, there is dispute between the parties in respect of a plot of 8 Biswas situated at village Kunji, District Solan (HP) and that the agreement of the plot was executed between both the parties at Chandigarh and that thereafter, a compromise was also effected between the applicant/ petitioner and opposite party Surinder Singh Dangi son of Balvir Singh of Chandigarh. Apart from it, the petitioner also made a statement that he has settled the matter with Parvind Arora and Gurvind Arora on the basis of swearing an oath. As such, the application was recommend to be filed. Incharge, Economic Offence Wing filed his report before Deputy Superintendent of Police (Investigation), Fatehgarh Sahib and the DSP (I), Fatehgarh Sahib submitted his report No.464/5-C/DSP (I), dated 26.8.2015 before the respondent No.2. Vide

order dated 27.8.2015, the respondent No.2 agreed with the said report and filed the said application. Copies of these reports are already on record of this case as Annexure P-3 collectively.

2. That thereafter, the petitioner filed application No.4142-Peshi, dated 22.11.2016, wherein he prayed that earlier he was not given justice while inquiring application No.2229 of 13.7.2015 and that inquiry on the said application may kindly be got re-conducted from some higher officer of SP rank. As such this application was marked to Deputy Superintendent of Police (Investigation), Fatehgarh Sahib. Vide his inquiry report No. 373/5C//DSP (I), dated 21.12.2016, this officer concluded that after hearing the applicant, it is proved that the applicant has been cheated by the opposite party namely Gurvind Arora, Parvind Arora and Gurjit Singh, but after hearing the opposite party, it comes out that the applicant has not been cheated and that for this reason, opinion be obtained from DA-Legal and action may be taken accordingly. The respondent No. 2 then raised objections to the said inquiry report and sent to the said report again to Deputy Superintendent of Police (Investigation), Fatehgarh Sahib for removal of said objections. Accordingly, DSP (I), Fatehgarh Sahib again submitted his report No. 373/5C/DSP (I), dated 15.2.2017 before the respondent No. 2 after removing the

leveled objections. Thereafter, legal opinion into the matter was sought and vide his opinion/report No. 655, dated 20.03.2017, Sh. Jatinder Singh, learned District Attorney (Prosecution), Fatehgarh Sahib, opined that the offence under Sections 406/420/120-B of IPC is made-out in the case.

3. That thereafter, Parvind Arora filed application No. 735/Peshi, dated 30.03.2017, which was also marked to DSP (I), Fatehgarh Sahib for inquiry and in his inquiry report No. 197/5C, dated 12.05.2017, DSP (I), Fatehgarh Sahib reported that the petitioner filed earlier application by distorting the real facts and brought the matter of property dispute into the matter of travel agents and whereas, the dispute is with regard to give and take of money qua property and that on the earlier sent report of application NO. 4142/Peshi, dated 22.11.2016 and on this application, no police action is required to be taken and the applications were recommended to be filed. Thereafter, the respondent No. 2 again obtained legal opinion from DA (L), Fatehgarh Sahib and on this report, DA (Legal), Fatehgarh Sahib opined that the opinion of DA (P), Fatehgarh Sahib has already been obtained into the matter and it will not be appropriate to give further opinion by him and that the opinion be obtained from Joint Director (Legal), Bureau of Investigation, Punjab. The respondent No. 2 then again obtained opinion from

DA (P), Fatehgarh Sahib, who reiterated his earlier given opinion. After obtaining this opinion, the respondent No. 2 passed order dated 06.06.2017, directing the SHO, Fatehgarh Sahib to take action as per DA (P) opinion.

4. That on the same day i.e., on 06.06.2017, aforesaid Parvind Arora filed an application, praying that justice was not done to them and that the matter be re-inquired. On this application, the respondent No. 2 passed order directing the SP (D) to enquire into whole matter thoroughly and to report within 5 days and to ensure justice and also directed not to register FIR till the new enquiry is completed. This application was numbered as application No. 1880-Peshi, dated 30.03.2017, 4142/Peshi, dated 22.11.2016 was conducted by Superintendent of Police (Investigation,) Fatehgarh Sahib. Vide his inquiry report No. 70/5C/SP/I, dated 08.07.2017, SP (I), Fatehgarh Sahib reported that from the inquiry of the applications, it has been found that the petitioner entered into agreement of property which Surinder Singh and in this regard, Suresh Kumar paid cash amount of Rs. 10,000/- to Gurvind Arora and also handed over self-cheques of Rs. 3,40,000/- to him on 17.06.2013 and that after withdrawing this amount from the bank, the same was paid by Parvind Arora to Surinder Singh Dangi and that the petitioner could not get registered the sale deed of this land in his name and the

date was then extended upto 18.08.2014 and that on 17.06.2014, the petitioner handed over another self-cheque worth Rs. 3,28,000/- to Parvind Arora and that the agreement could not mature and a compromise was effected between them on 02.05.2015 and that on this agreement, Parvind Arora is a witness and therefore, it is clear that this amount was paid by the petitioner for purchase of property and not for sending his son to abroad. Finally, the SP (I), Fatehgarh Sahib recommended to file these three applications. On this application, opinion of DA (P), Fatehgarh Sahib was again obtained, who opined vide his opinion No. 1365, dated 18.07.2017 that if the averments of the inquiry report are correct, then no further action is required to be taken by the police. On this application, the respondent No. 2 passed order dated 19.07.2017 on the said report and filed the said applications.”

Keeping in view the aforesaid stand, this Court is not inclined to issue any direction, as prayed for. Petitioner is, therefore, relegated to the remedy before the Magistrate.

Disposed of.

19.12. 2019

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No