

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

**CRM No.M-5935 of 2014 (O&M)
Date of Decision: February 25, 2019**

Harphool Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Achin Gupta, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.P.S.Ahluwalia, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.108 dated 23.08.2011 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Fatehgarh Sahib, supplementary challan under Section 173(8) Cr.P.C. and all other incidental and consequential proceedings arising therefrom.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

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

From the perusal of the record, I find that FIR in the present

case has been registered on the basis of application given by Ravinder Pal Puri, complainant, director/Proprietor Puri Promoters Ptv. Ltd. against Sohan Lal Arora, Harsawinder Singh Cheema, Advocate, Harphool Singh Gill (present petitioner) and Raj Kumar @ Raju, for taking legal action. As per the FIR, Sohan Lal Arora was harassing the complainant by preparing forged documents. It is mainly stated that complainant along with M/s Puri Promoter Pvt. Ltd. entered into an agreement to sell the land in the ownership of the firm measuring 41 kanals 11 marlas to Sohan Lal Arora and date for execution of sale deed was fixed as 20.08.2008 but he did not come present on the fixed date whereas complainant remained present continuously on three dates being fixed by the Tehsildar/Sub-Registrar. Sohan Lal Arora filed a case in civil Court, which was decided in favour of the complainant and against Sohan Lal Arora. After that, Sohan Lal Arora in connivance with stamp vendor Raj Kumar @ Raju forged stamp paper and filed a false case against the complainant in the civil Court on the basis of statement scribed on the stamp paper, on which false witness of one Harsawinder Singh Cheema, Advocate was sought and Tehsildar Harphool Singh Gill verified/attested the forged stamp papers and its entry in the record is not available with the Sub-Registrar/Executive Magistrate. Thereafter, Sohan Lal Arora in connivance with Harwarinder Singh Cheema, Raj Kumar @ Raju and Harphool Singh Gill, by forging documents, even after the expiry of date of agreement to sell, have hatched a conspiracy with an intention to grab the land measuring 41 kanals 11 marlas by misleading the Court.

Learned counsel for the petitioner argued that Sub-Registrar

Executive Magistrate, therefore, no FIR can be registered against him for the act done while discharging official duties and that too without any sanction. On the other hand, learned State counsel as well as learned counsel for respondent No.2 argued that present petitioner has attested an ante dated affidavit intentionally in connivance with co-accused and the documents will be treated as forged document. When any public servant commits forgery of the document, then no sanction under Section 197 Cr.P.C. is necessary as forgery of document cannot be held as act done while discharging official duties. Learned State counsel as well as learned counsel for respondent No.2 also argued that attestation of affidavit, in no way, can be held as judicial proceedings as a Court, therefore, no protection is available to the present petitioner. They further contended that there is no entry in the official record of the Sub-Registrar regarding attestation of the affidavit in question.

Learned counsel for respondent No.2 placed on record copy of stamp vendor's register, in which, after entry at Sr.No.19053, again entries at Sr.No.19052 and then 19053 have been made. He also argued that statement of the registration clerk has been recorded by the Investigation Officer during investigation, who has stated that this affidavit was not sent to him for entering into the register. Other Clerk of the Sub-Registrar office has given statement regarding the procedure as to how the affidavit is to be attested.

Learned counsel for the petitioner denied that petitioner has signed the affidavit showing back date whereas learned counsel for respondent No.2 and learned State counsel argued that sufficient evidence

ante dated and has been so forged to help accused Sohan Lal Arora in conspiracy with stamp vendor as well as Advocate.

As the parties are on dispute regarding finding of fact whether agreement is forged one or not, this finding of fact cannot be given in the quashing petition by this Court without any evidence. The finding of fact is to be given by the trial Court on the basis of evidence produced before it. At this stage, in no way, it can be held that registration of the FIR against the petitioner is abuse of process of law or amounts to miscarriage of justice. In case of forgery of document, sanction is not necessary as it cannot be held that document is forged while performing official duties.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above, shall constitute my opinion on merits of the case.

February 25, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No