

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15774 of 2017(O&M)
Date of Decision:14.10.2019

Tejwant Singh & anr.

... Petitioners

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.P. Kaushal, Advocate,
for the petitioners.

Ms. Simran Grewal, AAG, Punjab.

Mr. Sahil Garg, Advocate, for
Mr. Sumit Jain, Advocate,
for respondent No.4.

Mr. H.S. Dhindsa, Advocate,
for respondent No.5.

RAJIV NARAIN RAINA, J.(Oral)

Costs imposed have been paid and receipt produced, which is taken on record. Order proceeding ex parte against one of the respondents is set aside and the counsel has been heard in the making of this order while accepting his reasons for non-appearance.

The petitioners have approached this Court against the notice of the Tehsildar dated 10.07.2017 (Annex P-7), which is to the following effect:-

“Sub: Application from Gurmeet Singh s/o Hari Singh r/o House no.B-21-13263 Link Raod Dholewal Chownk, Ludhiana.

In ref. to above mentioned subject you had got registered the sale deed no.1162 dated 22.09.2016

and 1431 dated 24.11.2016. In this regard Gurmeet Singh s/o Hari Singh has given one application for registration of case u/s 82 of the Registration Act 198 (Central Act 19 of 1908) against you. In this regard the Hon'ble Registrar (Deputy Commissioner) is ordered to initiate inquiry against you while proceeding under Sections 82 and 83 of Registration Act 1908. So, you have to come to this office on 21.07.2017 at about 11:00 A.M for recording the statements in reference to the application. So, that further proceedings be taken place

Sd/-

Tehsildar”

The principal complaint is that even though the petitioners have been called under Sections 82 and 83 of the Registration Act 1908 (for short 'the Act'), but it has not been indicated in the afore quoted notice/order as to the prima facie material, which has led to a suspicion of false statement made by the petitioners merely on the basis of a complaint made by one Gurmeet Singh s/o Hari Singh demanding registration of a case under Section 82 of the Act against the petitioners, which prescribes the offence of making false statement, delivering false copies or translations, false personation and abetment. Section 83 of the Act authorizes the registering officer, which in this case is Tehsildar/Sub Registrar to commence prosecution. Prosecutions can be commenced in a case for any offence under the Act coming to the knowledge of the registering officer in his official capacity. A combined reading of Sections 82 and 83 of the Act clearly suggests that though power to proceed with prosecution exists in the Sub Registrar, but the notice must contain sufficient material, on the basis of which an opinion is formed for

the petitioners to answer. If the petitioners do not know the case against them, they would not be in a position to defend themselves. Accordingly, the notice is not clear as to why and on what ground the proceedings have been initiated, even when the petitioners insist that they have not made any false statements. In the absence of clarity, the notice deserves to be set aside leaving it open to the Sub Registrar to reconsider the matter and provide the basis of framing prima facie opinion for proceeding under the Act that a prima facie case for prosecution is made out before taking further steps. If no case is made out, the matter may be dropped..

The petition is allowed to the extent indicated and as a consequence Annex P-7 is hereby quashed.

(RAJIV NARAIN RAINA)
JUDGE

14.10.2019

monika

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No