

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

CRM-M-5842-2020 (O&M)

Date of Decision:- 16.3.2020

Raghubir Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. S.K.Chawla, Advocate the petitioners.

GURVINDER SINGH GILL, J.

1. The petitioners Raghubir Singh, Manpreet Singh and Baljinder Singh have approached this Court seeking quashing of FIR No. 3 dated 7.3.2019 registered under Sections 420/465/467/468/471 IPC and Section 24 of Immigration Act at Police Station NRI Ferozepur (Annexure P-4).
2. The FIR in question was lodged at the instance of Harpreet Singh @ Vicky wherein it has been alleged that he along with his brother Gagandeep Singh and mother Chhinder Kaur have been residing in village Mann Wale and that whereabouts of his father Naib Singh are not known since the last 15 years. It is stated therein that he along with his brother Gagandeep Singh reside in Malaysia and had come to India a few days back and upon coming to India, they came to know that his paternal uncle (Taya) Raghubir Singh in connivance with his son Manpreet Singh, his brother-in-law Baljinder Singh, Numberdar Gurdev Singh, the Bank Manager of State Bank of India and other officials had got a loan raised by mortgaging land belonging to

complainant and his brother with State Bank of India vide registration deed No. 1977 dated 5.11.2007 at Kotkapura, by way of impersonation and by forging their signatures. It is further stated therein that infact in the year 2007 when the alleged property was mortgaged, the complainant was aged barely 10 years and that even his brother was a minor. The complainant alleged that upon coming to know about the said fraud, he obtained a copy of the loan document from where he came to know that one Raghubir Singh and Gurdev Singh were the witnesses to the said document while Manpreet Singh and Baljinder Singh had impersonated in place of complainant and his brother and had affixed forged signatures.

3. The learned counsel for the petitioners has submitted that a false FIR has been lodged against the petitioners and that there is no evidence worth credence to connect the petitioners with the alleged fraud. It has, thus, been submitted that the FIR is an abuse of process of law and deserves to be quashed. The learned counsel has further submitted that infact the entire loan now stands repaid and the land in question has been redeemed and as such, it cannot be said that the complainant has been cheated in any manner.
4. I have considered rival submissions addressed before this Court.
5. A perusal of the FIR would show that there are specific allegations levelled in unambiguous terms to the effect that petitioners Manpreet Singh and Baljinder Singh had impersonated as complainant and Gagandeep Singh while the petitioner Raghubir Singh has attested the loan documents at the time of raising loan by way of mortgaging of property of the complainant and of his brother who were infact minors in the year 2007 when loan was raised. The mere fact that the loan has now been repaid would not advance

the case of the petitioners in any manner as the offence in question stood completed when the loan was raised by way of impersonation and by mortgaging the property of the petitioners.

6. Hon'ble the Supreme Court in State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335 enumerated the categories of cases where inherent powers under Section 482 Cr.P.C. could be exercised for quashing FIR as follows:

- “(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just

conclusion that there is sufficient ground for proceeding against the accused.

- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. It was further held therein as follows:

“103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

8. In another recent case *Dineshbhai Chandubhai Patel Vs. State of Gujarat*, (2018) 3 SCC 104, Hon'ble the Supreme Court held as follows:

“29. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot

act like an investigating agency and nor can exercise the powers like an appellate court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.

30.

31. In our considered opinion, once the court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.”

9. Keeping in view the fact that there are allegations in unambiguous terms levelled in the FIR, which disclose commission of offences of impersonation and forgery for the purpose of cheating and while also bearing the mind the ratio of above cited judgment, no case for quashing of FIR is made out.

10. The petition is sans any merits and is hereby dismissed.

16.3.2020

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No