

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

CRM-M-2308-2016 (O&M)

Date of decision: 25.02.2020

Daya Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Swaich, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. N.S. Sodhi, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No.17 dated 11.02.2015 under Sections 420, 467, 468, 471 of the Indian Penal Code (for short 'IPC'), registered at Police Station Sarhali, District Tarn Taran and all the consequential proceedings arising therefrom.

Brief facts of the case are that the aforesaid FIR was registered at the instance of complainant Hardip Singh with the allegations that petitioner Daya Singh had prepared two forged documents dated 18.12.2006 (Annexure P-7) and dated 28.09.1994 (Annexure P-5) and gave an application to Deputy

Superintendent of Police, Patti, District Tarn Taran for registration of a false case against the complainant and his family members regarding possession of the land, though civil suits are pending regarding the disputed land. On inquiry, it was found that both the documents were not executed by the persons, who are the alleged executants as well as by the cited witnesses.

Learned counsel for the petitioner has argued that much prior to registration of the FIR, petitioner had entered into an agreement to purchase of 01 kanal 07 marla of land from one Dhira Singh son of Kartar Singh on 28.09.1994 (Annexure P-5) (referred to as 'first document' in the FIR). It is further argued that in pursuance of this agreement (Annexure P-5), some amount was paid as earnest money and thereafter, vide sale deed dated 18.10.1994 (Annexure P-6), aforesaid Dhira Singh had sold the land measuring 01 kanal 07 marla comprising in khasra No.156//8/1 min (1-7) West situated in the area of Village Sarhali Kalan (A) to the petitioner and since then, the petitioner is in possession of the land owned by Dhira Singh, who was left with no share. It is also argued that since there was a dispute regarding 11 feet passage with one Joga Singh son of Balbir Singh, the petitioner entered into a compromise with him on 18.12.2006 (Annexure P-7) (referred to as 'second document' in the FIR). Vide this compromise/agreement, Joga Singh agreed to part away his 1/3rd share in the watercourse upto the fields of petitioner Daya Singh. This document was witnessed by Kashmir Singh, Namberdar, Kabal Singh and Makhan Singh.

Learned counsel for the petitioner has further argued that thereafter, in order to resolve the dispute, aforesaid Joga Singh, executant of

the compromise dated 18.12.2006, sold his share of land measuring 01 kanal 07 marla i.e. 27/1622 share of total land measuring 81 kanal 02 marla to the petitioner vide sale deed dated 05.02.2007 (Annexure P-8). Thus, Joga Singh was also left with no share in the common land. It is also submitted that thereafter, the litigation started between the petitioner and the complainant, as complainant had also some share in the joint land and started claiming his right over the land purchased by the petitioner from Dhira Singh and Joga Singh. In that process, petitioner had given a complaint to the police officials along with the documents including two agreements and the sale deeds. On the basis of said complaint, the complainant initially filed CRM-M-39868-2013 titled as Hardeep Singh and another Vs. State of Punjab and others, with a prayer to stop the official respondents from inquiring into the complaint given by the petitioner, on the ground that civil litigation is pending between them. The said petition was disposed of vide order dated 12.01.2015, granting liberty to the petitioners therein, to avail their remedy and only thereafter, the complainant got registered the impugned FIR.

Learned counsel for the petitioner has next argued that in the instant case, the police, after registration of the case, did not submit the report under Section 173 Cr.P.C. for a considerable long time and the complainant again filed CRM-M-46457-2019, praying for issuance of direction to the official respondents to conclude the investigation of present FIR. In the said petition, Deputy Superintendent of Police, Sub Division Patti, District Tarn Taran filed an affidavit that challan stands presented on 16.01.2020 and the same was rendered as infructuous. It is further argued that on the face of it,

the impugned FIR does not disclose any cognizable offence. It is also argued that the sole basis for registration of the impugned FIR is that the petitioner has fraudulently prepared two documents; first agreement dated 28.09.1994, vide which previous owner Dhira Singh entered into an agreement to sell with the petitioner and the second; the compromise dated 18.12.2006, vide which another co-sharer Joga Singh had given right of irrigation to the petitioner. It is further submitted that neither Dhira Singh nor Joga Singh are aggrieved against these documents and have never challenged the same before Court nor gave any complaint to the police authorities. It is thus submitted that in such circumstances, the complainant has no locus standi to say that these documents are forged by the petitioner, as neither he was a party to the same nor his right was in existence, when these documents were executed.

Learned counsel for the petitioner has also submitted that both these alleged documents were followed by two sale deeds executed by Dhira Singh and Joga Singh in favour of the petitioner and till date, even these sale deeds have never been challenged by these two persons in any manner. Therefore, these documents, which are agreements and sale deeds, lost their significance, as sale deed is a document of title and possession and therefore, the impugned FIR does not disclose any offence.

It is next argued on behalf of the petitioner that even as per the FSL report, which came during the inquiry, it is stated that thumb impression of Dhira Singh and signatures of Joga Singh are smudged in ink and are not comparable and it cannot be said that any offence is made out, as the complainant failed to provide the standard signatures/thumb impression of

Dhira Singh and Joga Singh of the relevant period. It is also submitted that the dispute regarding right of passage and irrigation is pending before the Civil Court, as it is own case of the complainant in the FIR that till no adjudication is made by the Civil Court, therefore, no offence is made out. It is further submitted that when the complainant filed CRM-M-39868-2013, he got the same as infructuous by making a statement that he may be granted liberty to take action against the petitioner and officials, who have filed a false complaint and the said petition was disposed of with liberty to the complainant (petitioner therein) to take action against whoever he wants. This Court had not granted any relief to the complainant and therefore, he got the impugned FIR registered by putting influence on the police officials. It is next submitted that till date, there is no finding recorded by any Court of law that these two sale deeds in favour of the petitioner, executed by Dhira Singh and Joga Singh, are not legal documents, as neither Dhira Singh nor Joga Singh have challenged the same.

In reply, learned State counsel, on the basis of affidavit of DSP, Sub Division Patti, District Tarn Taran, submits that on receiving a complaint from complainant Hardip Singh, regarding forging of two documents dated 28.09.1994 and 18.12.2006, an inquiry was conducted, in which statements of some persons were recorded, but conspiracy with witnesses Maninder and Satnam Singh was not proved. It is further submitted that when a complaint dated 26.08.2013 was moved by petitioner Daya Singh, complainant Hardip Singh, on the basis of two aforesaid documents, gave an application that these two documents are forged. In para No.5 of this affidavit, it is stated that

originals of these documents are part of the civil Court record and cannot be produced before the Investigating Officer.

A perusal of para No.6 of this affidavit shows that on 27.09.2017, a report was given by Director, Finger Print Bureau, Phillaur, wherein it is stated that impressions of Dhira Singh on the agreement dated 28.09.1994 and of Daya Singh on the agreements dated 18.12.2006 are sufficiently ink smudged and do not permit of comparison in their sufficient number of dependable ridge characteristic details and hence no opinion can be given on the same. It is further stated that on this account, the investigation remained pending for a considerable long time and now the report has been submitted, as it is.

Learned counsel for the complainant has not filed any reply, however, he has argued on the basis of reply filed by the State. It is argued that during the inquiry conducted by DSP, Sub Division Patti, District Tarn Taran, Joga Singh, Kashmir Singh Lambardar and Vijay Kumar have sworn/recorded their affidavits/statements that signatures on the agreement dated 18.12.2006 are not given by them. It is thus submitted that since both these documents were found to be forged, the police has rightly registered the impugned FIR. It is further argued that when the police was not completing the investigation, the complainant filed CRM-M-46457-2019, which was disposed of vide order dated 20.01.2020, in view of the affidavit of DSP, Sub Division Patti, District Tarn Taran that challan stands presented before the Illaqa Magistrate on 16.01.2020.

Learned counsel for the complainant has next argued that when

the complainant filed CRM-M-39868-2013, praying for restraining the official respondents from inquiring into the complaint given by the petitioner, on the basis of aforesaid two documents, notice was issued, however, later on, he withdrew the said petition, as the same was rendered as infructuous and liberty was granted to take action, in accordance with law and thereafter, he got the impugned FIR registered.

After hearing learned counsel for the parties, I find merit in the present petition, for the following reasons: -

- (a) The executants of two disputed documents have never come forward either before the civil Court or the criminal Court or before any police authority that they have been cheated in any manner or these documents are forged. Even both executants Dhira Singh and Joga Singh, immediately after executing these two documents, have executed 02 sale deeds in favour of the petitioner, on receiving total sale consideration and they were left with no right over the disputed land and therefore, there was no reason for them to challenge the sale deeds.
- (b) Once the sale deeds were executed by both these persons, the alleged agreements lost their significance, as both the executants of these disputed agreements (referred to in the impugned FIR), had subsequently executed the sale deeds in favour of the petitioner.
- (c) It is own case of the complainant that he had filed civil suit against the petitioner regarding the right of passage and

watercourse and during pendency of the civil suit, he first filed CRM-M-39868-2013, which was dismissed as withdrawn and later on, he got the impugned FIR registered with the allegations that aforesaid two documents are forged. Even otherwise, on the face of it, there is no evidence on record that these documents are forged, as report of the Director, Finger Print Bureau, Phillar clearly shows that signatures/thumb impression of Joga Singh and Dhira Singh on two disputed agreements were not worth comparable.

- (d) Even otherwise, the documents were executed about 10/20 years prior to registration of the FIR and since the complainant was not a party to the same, he had no locus standi to challenge these documents, which are executed between two co-sharers followed by sale deeds of the land in favour of 3rd co-sharer, leaving behind no right and therefore, when the persons, who had executed the agreements and sale deeds, have no grievance and never initiated any civil or criminal proceedings against the petitioner, the complainant had no locus standi to say that these documents are forged, especially in view of the fact that immediately thereafter, two sale deeds were executed in favour of the petitioner, which were never challenged by executants Dhira Singh and Joga Singh.
- (e) Mere fact that during the inquiry, these two persons had given affidavits that they have not executed the agreements, has no

bearing, as they had never given any affidavit that thumb impression and signatures are not made by them. Even otherwise, after more than 20 years of selling of right in the property, giving an affidavit by one person itself demonstrates that the same is for extraneous consideration.

Since the impugned FIR, on the face of it, does not disclose commission of any offence, I find that this case is squarely covered by judgment of the Hon'ble Supreme Court in **State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335.**

Accordingly, the present petition is allowed and FIR No.17 dated 11.02.2015 under Sections 420, 467, 468, 471 IPC, registered at Police Station Sarhali, District Tarn Taran and all the consequential proceedings arising therefrom are quashed qua the petitioner.

[ARVIND SINGH SANGWAN]
JUDGE

25.02.2020
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No