

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.20494 of 2021 (O&M)
Date of Decision:07.10.2021

Varinder Singh

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sangram Singh Saron, Advocate
for the petitioner.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This writ petition has been filed with the following prayers:-

“a. Issue a writ of mandamus, or any other appropriate Writ (s), Order(s) or Direction(s) to

- i. Entrust/transfer the investigation arising out of case bearing FIR No. 130 dated 08.05.2021 (Annexure P-12) registered with Police Station Haibowal, District Police Commissionerate, Ludhiana, for offences punishable under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 (IPC- for short) from the Special Investigation Team constituted by the orders of the Commissioner of Police, Ludhiana, Respondent no.3 to the Central Bureau of Investigation, Respondent no.6 as the abuse & misuse of law, power and authority in respect of investigation in the above FIR, is writ large and, therefore, no free, fair, impartial and/or unbiased investigation is expected at the hands of

such vested interests;

- ii. Quash and set aside constitution of the SIT for investigating FIR No. 130 dated 08.05.2021 (Annexure P-12) registered with Police Station Haibowal, District Police Commissionerate Ludhiana as the SIT has been constituted on the asking of the accused, who have no right or say in the mode and manner in which an investigation is to proceed.
 - iii. Monitor such investigation(s) as enunciated by the Hon'ble Supreme Court, inter alia, in "***Babu Bhai Jamna Das Patel V. State of Gujarat; (2009) 9 SCC 610***".
 - iv. Restrain the Joint Commissioner of Police, Headquarters Ludhiana, Respondent no.4, the Head of the Special Investigation Team constituted by the orders of the Commissioner of Police from filing a cancellation/closure report in FIR No. 130 dated 08.05.2021 (Annexure P-12) Court during the pendency of the above-mentioned Civil Writ Petition.
- b. Pass any other Order(s) or Direction(s), which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the Petitioner."

Petitioner is the complainant in FIR No. 130 dated 08.05.2021, under Sections 420, 406, 120-B IPC, Police Station Haibowal, District Ludhiana. It is stated that the petitioner entered into agreements to sell dated 01.06.2017 and 09.08.2017 for purchase of land with Sukhwinder Singh and Tejinder Singh, respectively. It is further stated that the petitioner paid an amount of Rs. 2,67,50,000/- to Sukhwinder Singh and Rs. 1,61,00,000/- to Tejinder Singh. After executing the agreements to sell, petitioner went to Canada for a family function while handing over the property documents to

Beant Singh, his partner. Agreement to sell in favour of the petitioner was stated to be taken by Pran Nath on the pretext of making part payment to the sellers i.e., Sukhwinder Singh and Tejinder Singh. Petitioner, it is stated returned to India in 2020 and came to know that the land which was agreed to be sold to him had been sold to Pran Nath and other buyers at the instance of Pran Nath. It is further stated that petitioner approached the Commissioner of Police, Ludhiana, in this respect, but the accused in connivance with each other created false, fabricated, antedated and forged agreements to sell dated 01.07.2017 and 09.08.2017, wherein it is stated that agreements to sell with the petitioner stood cancelled and the amount returned to the petitioner. Learned counsel further submits that the petitioner never ever affixed his signatures on the subsequent agreements and the amount in question was never returned to the petitioner. Petitioner has in fact, approached the police officials to take his specimen signatures and have the same compared with the signatures on the documents in question. The original documents, it is submitted have not seen the light of the day. The accused persons are alleged to have defrauded the petitioner for an amount of Rs. 4,28,50,000/- in connivance with each other.

Petitioner submitted a complaint dated 09.06.2020 before the Commissioner of Police, Ludhiana, which was marked as UID No. 1796078. Another complaint dated 05.08.2020, marked as UID No.. 1844542 was submitted by the petitioner before the Commissioner of Police, Ludhiana. These complaints were marked for investigation to the Assistant Commissioner of Police, Industrial Area-B, Ludhiana for enquiry. Report was submitted by the ACP, wherein it is recommended that offences punishable under Sections 420, 406, 120-B IPC, were made out against the accused.

Complaint dated 21.09.2020, was submitted by Pran Nath and Sukhwinder Singh, which was marked to the Joint Commissioner of Police, Rural, Ludhiana, who submitted his report before the Commissioner of Police, Ludhiana. Ultimately FIR No. 130 dated 08.05.2021, under Sections 406, 420, 120- B IPC, was registered against Sukhwinder Singh son of Tarlochan Singh, Tejinder Singh, Pran Nath, Daler Singh and Sukhwinder Singh son of Butta Singh. A Special Investigation Team (for short 'SIT') is stated to have been constituted to conduct investigation in FIR No. 130 dated 08.05.2021. Petitioner has raised an apprehension that the SIT, has been constituted at the behest of the accused persons and is at the verge of submitting a cancellation report. Moreover, repeated enquiries being conducted are illegal, arbitrary and contrary to the instructions of the department itself and settled position of law. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the file with his assistance.

Apart from the fact that there is nothing on record to indicate that repeated enquiries have been conducted after registration of the FIR, at this stage, I do not find any ground to interfere as prayed for in this writ petition. Needless to say, it is the duty of the SIT to conduct a complete wholesome enquiry, investigation into the entire matter covering all the aspects pertaining to the controversy at hand. It is further observed that due consideration shall be afforded to the specific stand of the petitioner i.e., of categorical denial of his signatures on the agreements to sell dated 01.07.2017 and 09.08.2017, Annexures P-4 and P-5. Needless to say, in case of submission of a cancellation report, petitioner is at liberty to avail the remedy/remedies as are available to him. It is made clear that there is no

expression of opinion on the merits of the matter.

Writ petition is accordingly disposed of.

07.10.2021

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.