

CRM-M-5997-2021

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

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Date of decision:15.09.2022

Sultan Singh

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Satyawan Singh Nain, Advocate,
for the petitioner.

Mr. Pawan Kumar Jhanda, AAG, Haryana.

Mr. Parminder Singh, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

This petition has been filed for quashing of FIR No.706 dated 11.10.2019, registered at Police Station Assandh, District Karnal, under Sections 120-B, 406, 420, 467, 468, 471 and 474 IPC and all the subsequent proceedings arising therefrom, on the basis of clearance certificate dated 27.01.2021 (Annexure P-3).

Learned counsel for the petitioner contends that the petitioner had taken a financial assistance of Rs.4 lakh from respondent No.2-Cooperative Agriculture and Rural Development Bank Ltd; that the petitioner had paid the entire loan amount and at this stage, nothing is due towards him, as would decipher from the clearance certificate dated 27.01.2021 (Annexure P-3) issued in his favour by respondent No.2. In such circumstances, criminal case cannot be allowed to continue and the

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petitioner cannot be subjected to harassment and forced to face the rigor of criminal trial.

Learned counsel for respondent No.2-bank submits that the petitioner has paid the entire loan amount and, therefore, the clearance certificate dated 27.01.2021 (Annexure P-3) has been issued in his favour.

On the other hand, learned State counsel submits that the petitioner in connivance with the revenue officials had manipulated and forged the revenue records to swindle the loan amount and, therefore, the present petition is liable to be dismissed.

I have heard the learned counsel for the parties.

Although the petitioner has paid the entire loan amount and the bank has issued a clearance certificate dated 27.01.2021 (Annexure P-3) in his favour, yet the fact remains that there are allegations against him that he had got the land redeemed, which was mortgaged with the complainant-bank, by forging the documents. It is also the case of prosecution that on the basis of forged documents, the petitioner had also obtained loan of Rs.14,65,000/- from SBI, Assandh, and Rs.18,50,000/- from the Union Bank of India, Assandh.

It is trite that the inherent powers possessed by this Court under Section 482 Cr.P.C., are very wide, but the same are not unbridled. It has to be exercised sparingly, carefully and cautiously, *ex debito justitiae* to do real and substantial justice for which alone the Court exists. Such inherent powers should not be exercised to stifle a legitimate prosecution.

The aforesaid allegations against the petitioner definitely makes out criminal offence, which needs to be tried. This Court does not

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find any force in the contention of the learned counsel for the petitioner that the petitioner had already repaid the loan amount and the criminal proceedings cannot be allowed to continue. To quash the proceedings merely on the ground that the accused has settled the amount with the bank, would be a misplaced sympathy. In economic offences, the Court must not only keep in view that money has been paid to the bank, which has been defrauded but also the society at large.

The Hon'ble Supreme Court in 'Sushil Suri Vs. Central Bureau of Investigation and Another', reported in (2011) 5 SCC 708, has held that the person who obtains the loan on forged documents, needs to be punished as per criminal law and the FIR cannot be quashed.

In view of the above foregoing discussion, this Court does not find any merit in the present petition.

Dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

15.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No