

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7672-2022

Date of Decision: 29.03.2022

Om Parkash

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anil Rathee, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the FIR No.1010 dated 26.10.2017, under Sections 120-B, 406, 420, 467, 468, 471 and 506 IPC, registered at Police Station Chandni Bagh, District Panipat and all other consequential proceedings arising therefrom.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the present case and, therefore, the present FIR and the consequential proceedings are liable to be quashed. He further submitted that a perusal of the FIR would show that the petitioner has been shown to be witness in some agreement and the same property was sold to different persons but so far as the present petitioner is concerned, he was only a witness and at the most it can be termed as a civil dispute for which civil suit can be the appropriate remedy and so far as the present petitioner is concerned, the FIR is liable to be quashed qua him. He further submitted that

the complainant and the main accused namely Sanjay are related to each other and the petitioner has been illegally framed by the police. He further submitted that the mere fact that the petitioner was only a witness to the agreements would not mean that a liability can be fastened upon him and, therefore, the FIR qua him is liable to be quashed because otherwise also the remedy with the complainant was for filing a civil suit by challenging the sale deeds and getting the property by way of suit for specific performance.

I have heard the learned counsel for the petitioner.

As per the allegations contained in the FIR which was lodged against three accused namely, Sanjay, Om Parkash (Petitioner) and Devi Chand on the ground that on 17.01.2017 the complainant purchased a land of 50 square yards out of one house which is situated at Shiv Nagar Peer Wali Gali, Gali No.3, Krishanpura, Panipat which he obtained by way of an agreement dated 16.04.2013 and it also bears the signature of Om Parkash (Petitioner) as a witness. After the purchase of the land the complainant was continuously holding the possession without any interference and the remaining land of 100 square yards was also handed over by the co-accused Sanjay to the father of the complainant after mortgage of the same. So far as the remaining 50 square yards of land is concerned, one Karam Chand is holding the possession which was purchased by the father of the complainant and, therefore, at present the complainant and his father are holding the possession of the entire house and co-accused Sanjay is staying in one room as tenant and thereafter many persons used to come to co-accused Sanjay for demanding money and the complainant came to know that the accused persons in connivance with each other had taken money for house by preparing/executing false agreements and sale deeds etc.

pertaining to many other persons and thereafter, it was found that the co-accused Sanjay and the petitioner Om Parkash have connived with other witnesses pertaining to the present property which was otherwise in the name of the mother of the co-accused Sanjay namely Smt. Murti who had died in the year 2009 and she had three daughters and the co-accused Sanjay as legal heirs and she did not execute any Will during her life time but the petitioner Om Parkash and co-accused Sanjay by preparing fake Will of his mother have got it registered in favour of Sanjay at the office of Sub Registrar, Panipat and thereafter, he declared himself to be the sole legal heir. Thereafter, he executed an agreement to sell for 50 square yards in favour of one Ram Mehar and in this agreement also the petitioner Om Parkash was a witness. In the same manner, he also executed another agreement for 100 square yards in favour of one Ram Karan son of Lekh Ram and took money from him. Thereafter, they executed another agreement of 200 square yards of the same property in favour of one Kuldeep son of Chander Bhan Not only this, the petitioner Om Parkash also got registered sale deed executed in his own favour from Sanjay with regard to the same property without paying any amount, although an amount of Rs. 15,00,000/- was mentioned in it. The co-accused Sanjay again executed another agreement with one Karam Chand son of Sh. Balbir Singh with regard to 50 square yards of property and in this agreement also the petitioner Om Parkash was a witness. The agreement which was executed in favour of Ram Mehar with regard to the same property was also witnessed by the petitioner Om Parkash. Thereafter, again an agreement with regard to the same property was executed one Surender son of Malku Ram after taking money. In this way, the present FIR was registered against

three accused including the petitioner.

During the investigation, it was found by the investigating agency that one property was sold to different persons number of times and the petitioner Om Parkash was witness in many of the agreements to sell. Not only this, the petitioner also got the property purchased in his own name without paying any money. Therefore, challan was also presented against the petitioner. The allegation against the petitioner was that he in active connivance with co-accused Sanjay had repeatedly sold the same property to the number of persons and received money. The argument raised by the learned counsel for the petitioner that he was merely a witness to the agreement would not suffice in view of the fact that it is not an isolated case that the petitioner was a marginal witness and that he was ignorant regarding the same but the sequence of events in the FIR and in the charge-sheet would show that the petitioner had been repeatedly witnessing the agreements and on one occasion the case property was also transferred in his own name and still the agreement was executed with the present complainant who has lodged the present FIR.

The law with regard to the quashing of the FIR is well settled. In case an FIR is to be quashed at the threshold, then the parameters laid down by the Hon'ble Supreme Court in the case of ***State of Haryana and others Versus Ch. Bhajan Lal and others [1991(1) RCR (Criminal) 383]*** are required to be fulfilled. However, in the present case none of the parameters as laid down in the aforesaid judgment are fulfilled. The learned counsel for the petitioner has not been able to make out any ground to show that continuation of the prosecution against the petitioner would be an abuse of the process of law. No ground has been made out seeking quashing

of the FIR at the threshold.

Therefore, finding no merit in the present petition, the same is hereby dismissed.

29.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No