

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

124

CRM-M-13578-2022

Date of Decision : **May 27, 2022**

SUNITA

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. G.S.Sandhu, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.497 dated 18.12.2020, under Sections 120-B, 406, 420, 506 IPC registered at Police Station Matlauda, Distinct Panipat alongwith all proceedings arising therefrom.

The learned counsel for the petitioner has submitted that in the present case there are four accused and the present petition has been filed qua one accused, namely, Sunita. He submitted that the complainant, namely, Sunil Kumar lodged the FIR by alleging that petitioner-Sunita and her son, namely, Vinay had executed an agreement to sell with the complainant on 3.10.2019 and also received a total amount of Rs.50 lacs. He submitted that the agreement to sell was pertaining to two pieces of land which belonged to the petitioner and her son. The land which was in the ownership of the petitioner was 13 kanals 9 marlas and the land which was in the ownership of her son was 4 kanal. He further submitted that thereafter in pursuance of the agreement to sell

the sale-deed was executed by the petitioner with regard to the aforesaid 13 kanals 9 marlas but the allegations are that the remaining land of 4 kanals which was in the ownership of her son was not honoured and as per the allegations her son had sold the said land to some other person, namely, Isham Singh on 30.9.2020 which is just after about eleven months of the last date of the execution of the agreement to sell dated 3.10.2019.

Learned counsel submitted that since the petitioner had executed the sale-deed in pursuance of the agreement to sell, the present FIR qua the petitioner is liable to be quashed.

On the other hand, Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana has stated that he has received an advance copy of the present petition and he has also sought instructions. He submitted that it is a case where the petitioner and her son had executed one single agreement to sell vide Annexure P-2 and it was not a case that two separate agreement to sell were executed. He further submitted that the registered sale-deed which the learned counsel for the petitioner has pointed out which was executed by the petitioner was of 24.2.2021 which was after the lodging of the present FIR. He submitted that in fact a perusal of the FIR would show that the complainant was wanting to purchase the land because his land was acquired and he wanted to purchase a chunk of land which was feasible for him and the aforesaid 4 kanals of land regarding which agreement to sell was executed is on the front side where there is an accessibility to the entire land and the aforesaid Vinay had sold the land to another person, namely, Isham Singh

which affected the accessibility/rasta to the land belonging to the petitioner i.e. 13 kanals 9 marlas which was ultimately sold. He submitted that infact there was an element of deception at the inception level and the challan has already been presented qua the petitioner. He further submitted that the present case does not fall within the parameters laid down by the Hon'ble Supreme Court in **State of Haryana and others Vs. Ch. Bhajan Lal and others, 1992 SCC (Crl.) 426.**

Mr. Vikas Rohal, Advocate has also appeared on behalf of the complainant-respondent No.2. He submitted that infact by way of one single agreement Annexure P-2, the petitioner and her son had executed an agreement to sell so that the complainant can use the land in a proper manner after getting the sale-deed executed but cleverly the son of the petitioner despite taking huge amount of Rs.50 lacs alongwith his mother sold the land to someone else and that 4 kanals of land was at the front of the entire land with the result that the complainant is not able to utilize the remaining land of 13 kanals 9 marlas. He submitted that at the time of agreement to sell, the sale consideration amount was fixed higher only by considering the fact that the 4 kanals of land falls at the front. He further submitted that both the mother and son have committed a fraud upon the complainant and even otherwise also the petitioner got registered the sale-deed after lodging of the FIR and, therefore, the present FIR cannot be quashed.

I have heard the learned counsels for the parties.

It is a case where the allegations are pertaining to fraud and deception on the ground that the petitioner and her son had executed one

single agreement to sell vide Annexure P-2 and thereafter they did not honour the agreement to sell even after taking the huge amount of Rs.50 lacs. Thereafter, the present FIR was registered after a gap of about 5 months from the last date of the execution of agreement to sell. The petitioner although got the sale-deed registered but the son of the petitioner sold the land which was the prime land at the entrance of the total land to someone else and rather as per the learned counsel for the complainant-respondent deprived the use of the entire land because the accessibility was hampered. The law with regard to quashing of the FIR is no longer res-integra. The Hon'ble Supreme Court in Bhajan Lal's case (Supra) has laid down the parameters as follows:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

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 F.I.R. 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 F.I.R. 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 F.I.R. 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.

108. 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 F.I.R. 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.”

Considering the aforesaid facts and circumstances and the arguments raised by the learned counsels for the parties, it cannot be said that the case of the petitioner falls in any of the parameters laid down by the Hon'ble Supreme Court.

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

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

May 27, 2022
ajay-1

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No