

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

CRM-M-27908-2018 (O&M)
Reserved On: 29.08.2022
Date of Decision: 06.09.2022

Manoj Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARNARESH SINGH GILL, J.

The petitioner, by way of the present petition, seeks issuance of directions to respondent No.2 and 3 to take appropriate legal action on the complaint dated 12.01.2018 (Annexure P.6) filed by the petitioner with the police, against respondent Nos. 4 to 11. Additionally, prayer is made for entrusting the investigation to an Independent Agency i.e. CBI/Vigilance Bureau.

Learned counsel for the petitioner would vehemently argue that in respect of the alleged fraudulent acts, besides Munni Devi, the petitioner had also filed a complaint with the Police, but the Police, though registered a criminal case i.e. FIR No. 57 dated 19.04.2018 under Sections 419, 420, 465, 467, 468, 471, 120-B IPC at Police Station Urban Estate Patiala, on the complaint of Munni Devi, but did not register a separate an FIR on the complaint so filed by the petitioner. It is further

submitted that the petitioner has obtained certain documents under the Right to Information Act, which clearly indicate that the Vigilance Bureau, had recommended registration of a criminal case on the complaint filed by the petitioner, but it was on the opinion of District Attorney, that no separate FIR was registered.

Eloquently referring the judgment of the Delhi High Court in State Vs. Khimji Bhai Jadeja, 2019(4) RCR (Criminal) 75, it is contended that when an accused commits offences against different person, then separate FIRs are required to be registered for each different crime.

On the other hand, learned State counsel, while referring to the status report, would contend that since FIR No. 57 dated 2018 stands already registered against the accused in this case and the petitioner has been cited as one of the witnesses therein and the complaint filed by the petitioner is also part of the challan, therefore, no separate FIR is required to be registered.

To this, learned counsel for the petitioner, though does not dispute the factum of the petitioner being one of the witnesses in the case and his complaint being part of the challan, yet he would contend that a very piquant situation might arise in the case i.e. if Munni Devi – complainant, at any stage of the trial, backtracks from the case or for that matter compromises the matter with the accused, the rights of the petitioner would get defeated and he would have no locus to prosecute the matter further.

Still further, counsel for the petitioner contends that the vigilance report though had recommended for registration of a separate FIR, yet on account of involvement of one Ranjit Singh, Tehsildar Patiala, the separate FIR was not registered by the police and that the opinion given by the District Attorney is also fallacious.

I have heard learned counsel for the parties and have also gone through the paper book minutely.

The petitioner alleges sale of a plot measuring 162 sq yard by one Ram Ranjan to him vide sale deed dated 27.11.2017; one Munni Devi is also stated to have purchased a plot measuring 210 sq yard from Ram Ranjan, vide sale deed dated 06.11.2017. The petitioner further avers that said plots were carved out of a bigger plot of 402 sq yard, which was sold by Balwinder Singh and S. Davinder Singh, on the basis of a forged General Power of Attorney, allegedly executed in their favour by Kanwaljit Singh and Amarjit Singh (the owners of the plot). The petitioner further avers that though he had made a complaint against all the accused, against the revenue officials, yet the police did not register an FIR on the said complaint.

On 27.01.2020, this Court passed the following order:-

“Learned counsel for the petitioner cited a judgement of Delhi High Court i.e. State Vs. Khimji Bhai Jadeja 2019 (4) R.C.R. (Criminal) 75, stating that though on the complaint of Munni Devi, the FIR has been lodged and the challan has been presented in which the petitioner is one of the witnesses and the complaint of the petitioner is part of the challan. Counsel for the petitioner, on the basis of present

judgment, states that the separate FIR is to be lodged on the complaint of the petitioner because in his complaint he has arrayed the official respondents also, as one of the accused who have connived with the persons who have tendered a forged General Power of Attorney. Learned State counsel prays for some time.”

The State has filed a status report, wherefrom the following relevant averments are required to be noticed:-

“7. That the respondent No.2 on receipt of report referred the matter to District Attorney (Legal) Patiala, who appended his opinion vide his report No. 691/Da/L dated 20.12.2018 that on the basis of application of petitioner as well as on the basis of complaint moved by Munni Devi, case FIR No. 57 dated 19.04.2018 under Sections 419, 420, 465, 467, 468, 471, 129-B IPC and Section 82 of the Registration Act, Police Station Urban Estate Patiala, has already been registered and after investigation charge sheet has already been presented in the Court where the petitioner is already cited as a witness and opined that no separate FIR needs to be registered. True translated copy of legal opinion is annexed herewith as Annexure R.3/T.

On receipt of legal opinion, the respondent No. 2 directed the then Deputy Superintendent of Police, City-2, Patiala, for necessary action and Deputy Superintendent of Police, City-2, Patiala, directed the Station House Office of Police Station Urban Estate, Patiala, for necessary action.

8. That after registration of the present case FIR No.57/2018, the investigation was being carried out by ASI Gurbinder Singh who recorded the statements of witnesses and arrested the accused Davinder Singh and Balwinder Singh on 15.05.2018 and also nominated accused Satnam Singh son of Nidhan Singh and Gurbaz Singh @ Sonu son of Harnam Singh, both residents of Village Chohant Kheri Police Station Sadar Samana and Sukhwinder Singh resident of Malakpur Samana Road Haryana. On the basis of disclosure statements recorded u/s 27 of the Evidence Act of Davinder Singh and Balwinder Singh, got recovered Rs.1,10,000/- and

Rs.1,35,000/- respectively, from their possession vide separate recovery memos.....”

From the aforesaid rival contentions and the pleadings of the parties, it transpires that the petitioner has been cited one of the witnesses in the FIR registered on the complaint of Munni Devi and as per the case of the prosecution itself, the complaint filed by the petitioner is also part of the challan. The sole grievance of the petitioner is that FIR ought to have been registered by the police, on his complaint.

It is not disputed by either of the parties that the allegations contained in the complaint of Munni Devi and that of the petitioner are common i.e. sale of the plots to them on the basis of forged documents. On the complaint of Munni Devi, FIR No. 57 was registered on 19.04.2018. Challan has already been presented and the petitioner has been cited as one of the witnesses in the case and even his complaint is also part of the challan. Yet further, from the status report, it transpires that supplementary challan against the remaining accused is yet to be presented.

The alleged transaction is of the year 2017 and on the basis thereof, on a complaint of Munni Devi, FIR No. 57 dated 19.04.2018 aforesaid stand registered. The grievance of the petitioner, as noticed above, is common to that of Munni Devi, except allegations against the revenue officials. Therefore, in view the totality of the facts and circumstances, the trial Court is directed to safeguard the interest of the petitioner and consider the petitioner at par with complainant-Munni Devi, in the said FIR. Still further, the petitioner would be at liberty to

seek his remedy before the Court concerned, in respect of his remaining grievances as held by the Hon'ble Supreme Court in Vinubhai Haribhai Malviya and others Vs. The State of Gujarat and others, Manu/SC/1427/2019.

Disposed of.

Pending application(s), if any, shall stand disposed of.

06.09.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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