

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

203

CRM-M-14313-2016 (O&M)

Date of Decision: 25.03.2022

MOHAN SINGH

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vivek Salathia, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

Mr. GS Bhatia, Advocate,
for respondents No.3 and 5.

HARNARESH SINGH GILL, J.

Challenge in the present petition under Section 482 Cr.P.C. is to the order dated 21.05.2015 passed by the Additional Sessions Judge, Amritsar, vide which the revision filed by the petitioner against the order dated 20.10.2012 passed by the Judicial Magistrate, 1st Class, Amritsar, dismissing an application under Section 319 Cr.P.C., was partly allowed.

The petitioner had moved an application under Section 319 Cr.P.C. for summoning accused, namely, Gurdev Singh; Naresh Chand Sharma; Prem Singh @ Pappu; Harbans Singh Patwari; Bhola Nath Clerk, Paramjit Singh Clerk and Kewal Singh Kanungo. Vide order 20.10.2012, the Judicial Magistrate, 1st Class, Amritsar, had partly allowed the

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application by summoning Prem Singh @ Pappu and Gurdev Singh @ Lalli as additional accused and dismissed the application qua Harbans Singh (Patwari); Bhola Singh (Clerk); Paramjit Singh (Clerk); Kewal Singh (Kanungo) and Naresh Kumar Sharma.

The petitioner challenged the aforesaid order by filing a revision petition before the learned Sessions Judge. However, vide order dated 21.05.2015, the learned Additional Sessions Judge, Amritsar, partly allowed the revision petition, thereby ordering the summoning of Harbans Singh (Patwari) as an additional accused. Still aggrieved, the petitioner has filed the present petition.

Learned counsel for the petitioner submits that the petitioner is a victim of an act of fraud committed against him by the gang consisting of the property dealer, deed writer and revenue officials; that on the complaint of the petitioner, FIR No.177 dated 18.8.2009 under Sections 419, 420, 467, 468, 471, 120-B IPC was registered at Police Station 'B' Division, Amritsar with the allegations that the petition upon having been shown Registry in respect of the plot measuring 202 square yards, khasra No.2259 min, owned by Balwinder Kaur, offered to purchase the same, purchased the same vide sale deed dated 17.02.2009 registered in the Office of Sub Registrar, Amritsar, for a total sale consideration of Rs.6,06,000/-; that later on, when the petitioner went to check the status of the plot, he came to know that fraud has been committed with him as the plot bearing khasra No.2259 shown to the petitioner was actually plot bearing khasra No.2236 and the

same was in the name of Satnam Kaur. It is further argued that the sale deed dated 27.11.1991 executed in favour of Balwinder Kaur was forged and fake one and that even on the basis of the said sale deed, mutation No.37274 was also sanctioned in favour of Balwinder Kaur. In this way, Balwinder Kaur in connivance with Gurdev Singh @ Lalli, Dilbagh Singh (Lambardar), Bachittar Singh and Manjit Singh (property dealer) had cheated the petitioner.

It is still further argued that Naresh Chander Sharma, Deed Writer, Bhola Singh, Clerk, Office of Sub-Registrar, Paramjit Singh, Clerk, Office of Sub-Registrar and Kewal Singh (Kanungo), had actively participated, by conniving with each other, in committing the fraud and forgery with the petitioner. It is further submitted that two inquiries were conducted i.e. one by Additional Director General of Police and another by the SHO, Police Station 'B' Division Amritsar; that Harbans Singh (Patwari); Bhola Singh (Clerk); Paramjit Singh (Clerk) and Kewal Singh (Kanungo) were found to be guilty in one report and in other report, Naresh Chander Sharma (Deed Writer) was found to be guilty.

It is thus, contended that the Courts below while passing the impugned order, ought to have summoned all the accused as they all being the chain of the same transaction, cannot be said to have not played any role in the crime.

Per contra, the learned State counsel and the learned counsel for respondents No.3 and 5 has submitted that there is no evidence on

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record to summon respondents No.2 to 5 as additional accused. While defending the orders passed by the Courts below, it is submitted that the said orders, being based on the documents and evidence on record, are well reasoned and, there is no ground, to summon respondent Nos. 2 to 5.

I have heard the learned counsel for the parties at length and have also gone through the documents on record.

The Deed Writer, Clerks from the Office of Sub-Registrar, and Kanungo have no role in preparing the alleged forged/fake sale deeds dated 27.11.1991 or 17.02.2009. Harbans Singh, Patwari and Rajinder Singh, Tehsildar, were found to be careless, while performing their duties. Rajinder Singh, Tehsildar has since expired and Harbans Singh, Patwari has already been summoned by the Additional Sessions Judge, vide order dated 21.05.2015.

Learned counsel for the petitioner could not point out any active role having been played by respondent Nos. 2 to 5. Thus, the said persons cannot be summoned by applying a straight-jacket formula, especially when, they were not found to be careless and negligent in performance of their duties.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

25.03.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*