

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-16353-2021(O&M)
Date of Decision : November 09, 2023

Jagtar Singh

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. K.B.Raheja, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Tanvir Singh Grewal, Advocate
for respondent No.2.

KULDEEP TIWARI. J.

1. The instant petition has been filed invoking extra ordinary powers of this Court as envisaged under Section 482 Cr.PC. seeking quashing of FIR No.9 dated 29.1.2019, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station SGN Dev Thermal Plant, Bathinda, District Bathinda on the ground that there is a delay of more than 3 years in the registration of present FIR.

2. Learned counsel for the petitioner has submitted that earlier an enquiry was conducted towards the allegations as levelled by the complainant, by the Superintendent of Police, Bathinda, who found the allegations to be false and baseless, as per his enquiry report dated 1.4.2008. He has further submitted that second enquiry was also

conducted, which is not permissible under law, which resulted in the registration of the present FIR. He has further submitted that the alleged forged documents were presented before the learned Civil Judge concerned, therefore, in view of the provisions of Section 195 Cr.P.C. only that Court can take cognizance of the complaint. He has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in **Gopalkrishna Menon Vs. D.Raja Reddy, 1983(4) SCC 240**. Upon reading of the allegations in the FIR, it is also submitted that infact civil dispute has been given the colour of criminal litigation. Therefore, the instant FIR is nothing but an abuse of the process of law.

3. The perusal of FIR further reveals that the complainant/respondent No.2-Mohinder Kaur had alleged that Jagmandeep Singh in connivance with Harinder Singh and Jagtar Singh (present petitioner) have forged an agreement to sell and on the basis of the said forged agreement to sell, they had instituted a civil suit and an *exparte* decree was obtained against her. The role of the present petitioner is that he was a signatory to the alleged forged agreement to sell.

4. With the able assistance of the learned counsel for the petitioner, the learned State Counsel and the learned counsel for the complainant, this Court has perused the entire record and is of the view that at this stage of the trial, this Court is not inclined to interfere in the present *lis* for the reasons mentioned hereinafter.

5. First of all, there are specific allegations against the present petitioner that he was one of the signatory to the forged agreement to sell.

Whether the delay in lodging the FIR has any bearing upon the probative value of the allegations is to be examined by the trial Court after the entire evidence to be adduced by the prosecution. This Court at this stage, cannot hold merely on the asking of the petitioner that the delay is fatal to the prosecution story.

6. The second argument raised by the learned counsel for the petitioner is that in an earlier enquiry report dated 1.4.2008, which was earlier conducted by the Superintendent of Police, Bathinda, the allegations were found to be false and baseless and, therefore, second enquiry cannot be conducted without the prior approval of the Director General of Police, Punjab. This submission is also not acceptable to this Court as there is a clear cut distinction between enquiry and investigation. It is not the case of the petitioner that in an earlier enquiry which was conducted, he was found innocent. In the instant case, the investigation has been carried out by the competent police Officials and final report has already been submitted in the trial Court. Therefore, whether the earlier enquiry conducted prior to the lodging of the present FIR has any bearing upon the veracity of allegations, would be a moot question to be examined by the learned trial Court, but cannot be a ground to quash an FIR straightway on the basis of the enquiry conducted prior to the lodging of an FIR.

7. The next contention raised by the learned counsel for the petitioner that in view of the provisions of Section 195 Cr.P.C., only the Court concerned is competent to file a complaint and the police is not competent to register an FIR. This contention is also bereft of merit as

the allegations in the FIR are that the petitioner after hatching conspiracy with the other co-accused has forged an agreement to sell and thereafter on the basis of forged agreement to sell, a civil suit was filed before the Court concerned and an *exparte* decree was obtained. Once there are allegations that the document was forged outside the Court, therefore, *prima facie* the bar imposed through Section 195 Cr.P.C. is not attracted and the private complainant has all right to set investigation agency into motion. However, this is the mix question of facts and law, which can only be appreciated by the learned trial Court concerned.

8. In view of the above discussion, this Court finds no merit in the present petition and the same is, hereby, dismissed.

9. However, liberty is given to the present petitioner to raise all these pleas before the learned trial Court at appropriate stage.

10. 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.

(KULDEEP TIWARI)
JUDGE

November 09, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No