

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-25320-2017
Date of decision: 29.05.2023

Phoolpati and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Silak Ram Hooda, Advocate
for the petitioner.

Mr. Chetan Sharma, DAG, Haryana
for respondent No.1-State.

Mr. Amit Kumar Bhardwaj, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking quashing of FIR No.214 dated 06.05.2017 which stands registered against them under Sections 120-B, 420, 468 and 511 of the IPC at Police Station Sadar, Bahadurgarh and all other consequential proceedings arising therefrom.

2. Learned counsel for the petitioners submits that petitioners No.3 and 4 were merely attesting witnesses to the sale deed in question and the only role attributed to them in the FIR in question is that they identified the vendor and the vendee. He further submits that petitioners No.3 and 4 did not have any right over the property in question much less any interest would have accrued to them by virtue of the sale deed in question. It has, therefore, been vehemently urged that no offence is thus made out against both of them and the continuation of criminal

proceedings against them would be nothing but an abuse of the process of law.

3. Learned counsel has further submitted that petitioners No.5 and 6 were bonafide purchasers of the land in question having purchased it for a sum of ₹1,08,000/- and ₹1,57,500/- respectively. Learned counsel still further submits that the petitioners had exercised due diligence at the time of the purchase of the property in question by inquiring qua the status of petitioners No.1 and 2 who as per the revenue records were shown to be the owners of the plot in question. Learned counsel has vehemently asserted that a perusal of the allegations levelled in the FIR in question annexed as Annexure P-2 leave no manner of doubt that the allegations of fraud and forgery, if any, were only against petitioners No.1 and 2 and the ingredients to attract the mischief of an offence under Section 420 and 468 of the IPC was not made out against petitioners No.5 and 6. Hence, the FIR in question was liable to be quashed qua them as well.

4. Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the prayer and submissions made by the counsel opposite. It has been submitted that the mutation qua inheritance of the plot in question had been got fraudulently sanctioned by petitioners No.1 and 2 in their favour. Pursuant to this fraudulent mutation, as part of a pre-planned conspiracy, petitioners No.1 and 2 further sold the plot in question, which was much more than their share to petitioners No.5 and 6. It has been argued that the above fraud and subsequent sale transactions had been done with the active

connivance of petitioners No.3 and 4 who identified the vendor and the property in question. Still further, the plot in question had been sold to petitioners No.5 and 6 who were well aware and had full knowledge of the whole fraudulent transaction as they were co-villagers of petitioners No.1 and 2. It has been further contended that prior to the registration of the FIR in question, the complainant had also moved an application to the Tehsildar concerned on 27.03.2017 asking him to stop the registration of the sale deed in question and as a result of which, the registration of the sale deed was also stopped. Besides the above allegations, there were also allegations against petitioners No.5 and 6 of having threatened the complainant with dire consequences.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The powers of this Court under Section 482 of the Cr.P.C. no doubt are extensive, however, these powers have to be exercised with a great deal of circumspection. The circumstances in which the powers of this Court under Section 482 of the Cr.P.C. can be invoked to quash an FIR have been discussed by the Hon'ble Supreme Court in

State of Haryana Vs. Ch. Bhajan Lal : AIR 1992 SC 604, as under:-

“(a) 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;

(b) 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;

(c) 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;

(d) where the allegations in the FIR 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;

(e) where the allegations made in the FIR 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;

(f) 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;

(g) 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.”

7. Therefore, the powers under Section 482 of the Cr.P.C. to quash an FIR have to be exercised with restraint and the Court is to restrict itself to see as to whether a prima face case is made out or not, on a bare reading of the allegations levelled in the FIR. The Court certainly can neither conduct a mini trial at the stage of quashing of an FIR nor can delve into the truthfulness or genuineness of the allegations levelled in the FIR. In this regard, the Supreme Court in ***Dineshbhai Chandubhai Patel Vs. State of Gujarat : (2018) 3 SCC 104*** has held as under:-

“30) The High Court, in our view, failed to see the extent of its jurisdiction, which it possess to exercise while examining the legality of any FIR complaining commission

of several cognizable offences by accused persons. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate Court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.

31) At this stage, the High Court could not appreciate the evidence nor could draw its own inferences from the contents of the FIR and the material relied on. It was more so when the material relied on was disputed by the Complainants and visa-se-versa. In such a situation, it becomes the job of the investigating authority at such stage to probe and then of the Court to examine the questions once the charge sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.”

8. Adverting to the case in hand, there are specific allegations levelled against petitioners No.3 and 4 of having connived with petitioners No.1 and 2 in the sale of the property in question. As per the allegations, petitioners No.3 and 4 were attesting witnesses to the sale deed in question and also identified the vendor. Besides this, petitioners No.5 and 6 have also been attributed an active role in the crime in question as not only the property was transferred in their name vide sale deed in question but they had also extended threats of dire consequences to the complainant.

9. Though the learned counsel for the petitioners has asserted that petitioners No.5 and 6 are bonafide purchasers, however, the same is a matter of trial and evidence qua the same cannot be delved into at this stage.

10. In view of the above discussion, the instant petition being devoid of any merit is dismissed.

11. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

29.05.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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