

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-9602-2022 (O&M).
Date of Decision: 17.08.2023.

RAJINDER MOHAN AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. S.S. Kang, Advocate, with
Ms. Tanu Bedi, Advocate, for
Mr. R.S. Cheema, Sr. Advocate,
for the petitioners.

Mr. Vivek Chauhan, Addl. A.G. Haryana,
for respondents No.1 to 3.

Mr. Rahul Sharma, Advocate,
for respondent No.4.

VINOD S. BHARDWAJ. J (ORAL)

The present petition has been filed for seeking quashing of
FIR No.0283 dated 01.04.2022, under Sections 406 and 420 of the
Indian Penal Code, registered at Police Station City, Yamuna Nagar
(Annexure P-1) on the ground that an earlier FIR No.0687 dated
22.11.2017, had been registered at the same very Police Station for

offence under Sections 120-B, 416, 419, 420, 467, 468, 471 and 472 of the Indian Penal Code and a cancellation report had been prepared.

A short reply by way of affidavit of Rajat Gulia, HPS, Deputy Superintendent of Police, Radaur, Yamuna Nagar, dated 19.09.2022 on behalf of respondent No.1, has been filed wherein it has been averred that after the registration of the case, investigation was carried out by the local police and during investigation statement of respondent No.4 was also recorded. The evidence was collected and it was recorded as under:-

4. That during course of investigation of case FIR No 687, dt. 22-11-2017 it was found that the property in dispute in which the complainant Subodh Parkash made investment, the said amount has been got by him after selling his share, as such no offence of forgery was found, so it was found that the matter in dispute is in respect of money transaction. Consequently FIR No. 687, dt. 22-11-2017 was cancelled and cancellation report, after getting necessary approval from senior officers, was put up before the ld. court on 10-07-2020. The Ld. Court issued notice to the complainant. The complainant through his counsel appeared before the Ld. Court and the Ld. Counsel of the complainant got recorded his statement that the case file may be sent in the office of learned S.P. Yamuna Nagar for further investigation. It is further submitted that the orders for further investigation has been issued by the office of Superintendent of Police, Yamuna Nagar vide order no. 1098/R, dt. 17-04-2022. Now said case is fixed for 07-10-2022 for decision to the effect that whether the cancellation report is to be accepted or not.

5. That meanwhile, the petitioner Rajinder Mohan filed a petition bearing CRM-M No. 8766 of 2018 for quashing the aforesaid FIR No. 0687, dt. 22-11-2017. In the said petition, after receipt of notice, the detailed reply was filed by the State. After hearing the arguments, the Hon'ble High Court allowed the said petition qua the petitioner No.1, however, it was held that the complainant was at liberty to avail remedy as per law against accused Rajiv Kumar Gadh vide order dt. 06-12-2018.

6. That thereafter, the complainant i.e. respondent no. 4 again gave a complaint to the police on 30-03-2022 against petitioners with allegations that he had purchased a property in the name of firm in the Ashta Trading company in the year 2005 from J&K Bank measuring 550 Marka and the said property was sold in auction and the said property was known as Parbhat General Agency who had defaulted and the bank had sold the property in auction and the same was confirmed in the name of complainant. The accused firm fraudulently and by putting wrong signatures transferred the property partly in the name of his company and partly in the name of the company of accused Virkamditya and Rajinder. Thereafter, dispute arose and the after pursuing him and showing as if they all are sorry for their acts and told that they want to settle the dispute and as he and the accused no. 1 were old known to each other and close friends and at requests of all other friends, near and dear ones a settlement compromise was reduced into writing as per which the accused no.1 assured that the available property shall be sold and thereafter, the sale proceeds would be distributed amongst them as settled in the compromise agreement. The complainant further alleged that the property was purchased by him/his own proprietorship firm Astha Trading Company and the

proceeds were paid by him in all manners. The accused without his consent and inspite of the fact that the sale of the property was not permitted as per the Hon'ble Supreme Court order, by presenting themselves as Purchasers fraudulently represented the bank to transfer the property in the name of the company JMID Special Steels Pvt. Ltd. in which accused are directors and beneficiaries. When dispute was raised, they entered into a compromise fraudulently with him only with a view to grab his property and he was convinced with malafide intentions by giving the fact of the past friendly relations to bring to an end to all the disputes and entering into the written agreement on 02-04-2013 when the matter was pending before the Hon'ble Supreme Court after the alleged date of retirement i.e. 2008 and if he had retired from the company then why they entered into agreement. They had only since beginning intention to cheat in fact. In all record transferring his property in their names by forging and fabricating his signatures and his letter pads and documents. Under the garb of the compromise trying to usurp his property and showing before the authority and courts and they are the owners whereas the actual documents of he property / ownership / allotment and certificates are in the name of his firm Aashta Trading Company. Now when the mater disclosed by the Hon'ble Supreme Court and the property is free to be sold, representing that he has no right in the property and resiling from the agreement dt. 02-04-2013 in all manners. The accused further trying to sell the property to some third parties after having settled the dispute with him and even during all these 3 years, the accused nos. 2 and 3 have always been trying to and clearly in all communications requesting him not to worry and assuring them as soon as the dispute is cleared in the Hon'ble Supreme Court he would be getting all his rights as per

agreement. In spite of having no right in his property, trying to create fraudulent transfers and entries to show their rights in his upd. of Police property and then again settling the disputes to cover their guilt Radaur and then taking the excuse of mental illness without any mental certificate regarding the execution of the agreement dt. 02-04-2013 2013 intentionally and deliberately only to avoid the execution of the agreement and its terms in which basically he was at the compromising end due to the cheating previously committed by the accused together and further now the accused being related to each other clearly only with a view to even not pay his rights as per agreement making false stories and trying to sell the property to other persons. The accused have further shown wrong and incorrect balance sheets to further their false claims over the property and the same is also a fraud and the valuation of the property also shown falsely in all manners in furtherance of their malafide and criminal conspiracy as their intention was to bring the loss to him only. In the aforesaid complaint, fact regarding registration of previous FIR was not disclosed. However, this fact came into the notice during the investigation of the case.

7. That after receipt of aforesaid complaint, the present FIR No. 283, dt 01-04-2022, u/s 406, 420 IPC was registered at P.S. City Yamuna Nagar and later on, Sections 506, 120-B IPC were added.

8. That after registration of aforesaid case, investigation was carried out and the cancellation report of case FIR No. 687, dt. 22-11-2017 was taken into police possession. Both the case files were carefully gone through and it was found that the facts of the complaint on the basis of which FIR No. 283, dt. 01-04-2022 has been registered are same as that of

complaint on the basis of which FIR No. 687, dt. 22-11-2017 was registered.

9. That thereafter, a letter No. 49890, dt. 29-07-2022 was written by Supdt. of Police, Yamuna Nagar to the Director general of Police, Panchakula for legal opinion from A.G. office Haryana in respect of FIR No. 283, dt. 01-04-2022. The photocopy of aforesaid letter is enclosed herewith as Annexure R-1.

10. That in response to the aforesaid letter, an opinion was given by the Id. Additional Director General, Haryana to Director General of Police, Haryana that on the basis of same facts, two FIRS could not be registered. The copy of the said opinion was forwarded by the office of Director General of Police, Haryana to the office of Supdt. of Police, Yamuna Nagar vide letter No. 17175/CR-3, dt. 30-08-2022. The copy of legal opinion is enclosed herewith as Annexure R-2. WALLE SHAP

11. That in view of aforesaid legal opinion, the FIR No. 0283, dt. 01- 04-2022 has been cancelled on 15-09-2022 and the cancellation report would be submitted before the Id. Court in due course.

12. That since the aforesaid FIR No. 283, dt. 01-04-2022 has been cancelled, the grievance raised by the petitioners herein stands duly redressed as such, the present petition has been rendered infructuous and the same deserves to be dismissed.”

Learned State counsel submits that cancellation report has already been prepared on the opinion having been given by the District

Attorney and the same shall be filed in the Court expeditiously and in any case not later than 04 weeks from today.

In view of the aforesaid, the present petition is disposed of as not pressed at this stage. The respondents shall ensure filing of the cancellation report before the Illaqua Magistrate within a period of 04 weeks from today as undertaken whereupon the petitioners shall have liberty to take all the pleas available to them in accordance with law.

August 17, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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