

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

CRM-M-44064-2015 (O&M)
Decided on : 24.01.2023

Sukhpal Kaur & others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kewal Singh, Advocate
 for the petitioners.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Satinder Khanna, Advocate
for respondent No.2.

Manjari Nehru Kaul, J.(Oral)

Petitioners are seeking quashing of Complaint No.38/1/09.05.2009 under Sections 418/420/423/424/465/467/468/471/120-B IPC along with the order dated 23.03.2015 (Annexure P-2) vide which they were summoned to face trial by JMIC, Ludhiana and consequential proceedings arising therefrom.

Learned counsel appearing for the petitioners submits that totally false and fabricated allegations have been levelled against them in the complaint dated 09.05.2009 (Annexure P-1) with an oblique motive to harass and humiliate them. Learned counsel further submits that petitioner No.2 was also one of the beneficiaries of the judgment and decree dated 27.01.1987, after the death of his father, Gurbachan Singh. Therefore, petitioner No.3 had executed sale deed dated 09.02.2007 in favour of

petitioner No.1 only to the extent of his share. Hence, no loss or prejudice had been caused to respondent No.2 as her share remained intact and untouched. It has been further contended that respondent No.2 herself admitted in her written statement filed in a civil suit instituted by petitioner No.2 -Gurjit Singh that land falling in khasra No.785 stood partitioned between her and petitioner No.2. Learned counsel has lastly vehemently asserted that even if for the sake of arguments the allegations made in the complaint were taken to be gospel truth, they would not constitute any offence.

Per contra, learned counsel has prayed for dismissal of the instant petition by urging that the land falling in Khasra No.785 had been transferred in favour of petitioner No.1 by petitioner No.3 by way of a forged and fabricated sale deed wherein there was no recital qua the pendency of the execution proceedings. Hence, there was sufficient evidence on record to show the dishonest intention of the petitioners to defraud respondent No.2.

Heard learned counsel for the parties and perused the relevant material available on record.

It needs to be reiterated that if on due application of mind to the allegations made in the complaint and other material on record, the Magistrate finds sufficient grounds for proceeding against the accused, then process can be issued under Section 204 Cr.PC. At this stage, only a *prima facie* satisfaction has to be arrived at by the Magistrate qua the commission of the offence(s) alleged and not whether there exists sufficient grounds for the conviction of the accused or not.

In the instant case, admittedly, the land falling in Khasra No.785 (detailed in para 1 of the complaint) was transferred by petitioner No.3 in favour of petitioner No.1 during the pendency of the execution proceedings of judgment and decree dated 27.01.1987. A perusal of the sale deed dated 09.02.2007 (Annexure P-3) reveals it is absolutely silent qua the pendency of execution proceedings.

Therefore, in the facts and circumstances, *prima facie* there does exist sufficient ground for proceeding against the petitioners.

Whether the allegations levelled are false or not would be a matter of trial, which cannot be delved into either by this Court or by the Magistrate at this stage. Since the Magistrate has rightly exercised its discretion while issuing process, this Court would loathe to interfere much less examine the authenticity of the allegations levelled by the respondent-complainant.

As a sequel to above, this Court does not deem it appropriate to invoke its inherent powers vested under Section 482 Cr.PC for quashing the complainant as well as summoning order (Annexures P-1 and P-2 respectively) in question. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

24.01.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No