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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-41314-2022
DECIDED ON: 10th APRIL, 2023

GURPREET KAUR AND OTHERS

PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ajay Pal Singh, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Mohit Saini, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked for quashing of FIR No. 77, dated 07.05.2022, under Sections 419, 420 and 120-B IPC, registered at Police Station Lehra, District Sangrur.

The primary argument is centered around the question that the nature of allegations as averred in the FIR are of civil nature pertaining to the dispute over the land based on a Will executed by the mother of respondent No.2 and mutation entries made while relying upon the said Will.

Another argument raised by learned counsel for the petitioners is that the complainant namely Gurprabhjot Singh has no *locus-standi* as his mother has executed the Will and got effected the mutation entries on the basis of the same. The contention raised by learned counsel for the petitioner is that the sale deed (Annexure P-2/t) pertaining to the land measuring 9 kanal 3 marlas was executed on the basis of the said Will after the death of mother of respondent No.2.

Status report dated 17.01.2023 filed by way of an affidavit of Pushpinder Singh, PPS, Deputy Superintendent of Police, Sub Division, Lehra, District Sangrur is taken on record.

Heard counsel for the respective parties.

As a universal fact the criminal proceedings should not be encouraged when it is found to be *mala-fide* or otherwise an abuse of the process of the Courts.

The Supreme Court in the case of **State of Haryana & Ors. Vs. Bhajan Lal & Ors. 1992 Supp (1) SCC 335** the scope of inherent powers of the High Court under Section 482 Cr.P.C. to quash the FIR has been discussed in detail. At the same time, the Apex Court identified the following cases in which FIR/complaint can be quashed:

1. *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.*
2. *Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.*

3. *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.*
4. *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.*
5. *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.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the 21 proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*
7. *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.*

Having gone through the contents of the FIR, it is abundantly clear that respondent No.2 now as an after thought being elder son of Amarjit Kaur (since deceased) executant of the Will lodged the instant FIR on 07.05.2022 i.e. much later to the registration of sale deed as well as entries in the mutation. The complainant has a remedy available under the civil law wherein the question of title can be adjudicated and no criminal liability particularly can be implicated upon considering that no iota of any fraudulent intention, forgery and fabrication of the Will has been put forth by the complainant/respondent No.2. Moreover, there is no explanation of

delay in lodging the FIR after registration of sale deed dated 26.11.2019 wherein the present FIR was registered on 07.05.2022 almost after 1 ½ years, which has not been satisfactorily explained at all.

This Court is of the considered opinion that since the facts as authored in the FIR depicts clearly the case of civil nature and for that appropriate remedy under the civil law is available to respondent No.2 and also on account of the fact that there is an inordinate delay, even after registration of sale deed (Annexure P-2), in lodging the FIR tantamounts an abuse of process of law.

In view of above, the present petition is allowed and FIR No. 77, dated 07.05.2022, under Sections 419, 420 and 120-B IPC, registered at Police Station Lehra, District Sangrur along-with all subsequent proceedings arising therefrom are quashed qua the petitioners.

(SANDEEP MOUDGIL)
JUDGE

10th APRIL, 2023
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |