

CRM-M-34154-2016
RESERVED ON: 17th JANUARY, 2023
PRONOUNCED ON:01.06.2023

VERSUS

.....RESPONDENTS

....PETITIONER

.....RESPONDENTS

.....PETITIONERS

.....RESPONDENTS

None for respondent No.2.

SANDEEP MOUDGIL, J

1. Vide this common order, this Court intend to dispose of all the three petitions together as they are arisen out of the same FIR.
2. The jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, has been invoked for quashing of FIR No. 68, dated 01.06.2016, under Sections 406, 420, 467, 468, 471, 120-B of the Indian Penal Code 1860 (for short 'IPC') registered at Police Station Amloh, District Fatehgarh Sahib.
3. The contents of the FIR are reproduced hereinbelow:-

“Copy of complaint No.77/CIA, dated 8.3.2016 from Ramandeep Kaur wife of ,Didar Singh son of Dalip Singh, resident of village Muggal Majra, Tehsil Amloh, District Fatehgarh Sahib, for registration of a case. To the Deputy Commissioner Sahib, Fatehgarh Sahib. Subject: Complaint for registration of a case against Balwinder Singh son of Jang Singh son of Gajju, Rajvir Singh son of Balwinder Singh son of Jang Singh, Gurminder Singh son of Buta Singh son of Jang Singh, resident of village Lallon Khurd, Tehsil Amloh, District Fatehgarh Sahib, Five Star Finance Company, Amloh, Nirmal Singh resident of village Badi Panecha, Sub Tehsil Bhadson, District Patiala, as they have committed a fraud, forgery and mis-appropriation and threatened to murder us. Respected Sir, The complainant Ramandeep Kaur wife of Didar Singh son of Dalip Singh, resident of village Muggal Majra, Tehsil Amloh,

District Fatehgarh Sahib requests you that I am resident of above said address and I am a peace loving lady. I do not believe in any quarrel. My husband does not know about the law. The above said person Balwinder Singh is doing the work of finance and the remaining persons are his associates. In the year 2013, my husband got loan from the above said Balwinder Singh and he got signatures and thumb impressions of my husband on many blank papers and he also got 4-5 blank cheques which were signed by my husband. Balwinder Singh also got signatures of my husband on blank stamp papers and Balwinder Singh promised us that when we will repay the loan amount, then he will give back us the papers. That now we have repaid all the amounts of the finance company of Balwinder Singh but he has not returned out cheques and stamp papers and other papers. When we demanded the receipt and papers from Balwinder Singh, then he said that he will give lateron. Balwinder Singh did not return our papers and also did not issue receipt to us. Balwinder Singh under a planned conspiracy made some writing on the blank stamp papers and blank papers and committed a fraud with us. Now the above said persons Balwinder Singh along with his companions visited my house and threatened me that they will grab our property and also saying that he will present blank cheques one by one and will send my husband in jail. That due to illegal acts of the above said Balwinder Singh, I and my family members

are suffering physically and mentally. That Balwinder Singh and his son Rajvir Singh are openly threatening us that their work is to loot people and if we will report against them, they will murder us. They are saying that they are having association with big gundas and, thus, no body can cause harm to them. That 7 the above said Balwinder Singh and his companions one day took my husband in a car from our house and said that they have to talk with him and they will release him but they threatened him a lot and asked him to accept whatsoever they are saying, otherwise they will murder him. I am having apprehension that the above said persons can kidnap my husband and can murder me. It is also pertinent to mention here that the above said Balwinder Singh has cheating innocent persons in the area and regarding this, I can give proofs. That now I am having apprehension that Balwinder Singh will either himself or in the name of some body else fill the cheques and misuse the same. That if Balwinder Singh and others are arrested, then a big scandal can be unearthed. That Balwinder Singh etc. are influential persons and they are having big approach and investigation of this case be conducted from some senior police officer. So it is requested that a case of fraud, forgery and misappropriation and threatening to commit murder be registered against Balwinder Singh son of Jang Singh son of Gajju, Rajvir Singh son of Balwinder Singh son of Jang Singh, Gurminder Singh son of

Buta Singh son of Jang Singh, resident of Lallan Khurd, Tehsil Amloh, District Fatehgarh Sahib, Nirmal Singh resident of Badi Panecha, Sub Tehsil Bhadson, District Patiala and our blank stamp papers and blank papers and other papers be returned and our rights be protected. Thanking you, Sd/- Ramandeep Kaur. On this complaint, the Deputy Commissioner, Fatehgarh Sahib wrote to the SSP, Fatehgarh Sahib to take appropriate action. Then the SSP Fatehgarh Sahib in regard to the above said complaint No.38 MFR, dated 16.3.2016 wrote to the DSP Amloh to inquire into the matter and take appropriate action and report be submitted within seven days. On that, the DSP Circle Amloh forwarded his report to the SSP Fatehgarh Sahib and he wrote in his report that from his open and secret investigation, it is found that the other party has Five Star Finance Company at Amloh in the name of Nirmal Singh. Balwinder Singh, Rajvir Singh and Gurminder Singh are its partners. Didar Singh husband of Ramandeep Kaur borrowed a sum of Rs.7 lacs from Balwinder Singh in the year 2013 with a promise to pay 2% interest and Balwinder Singh above said, as a guarantee, got blank papers, stamp papers, pronote and five cheques of HDFC bank from Didar Singh, husband of the complainant and also got his signatures and thumb impressions. Didar Singh husband of Ramandeep Kaur got Rs.6 lacs from Balwant Singh on 13.11.2013 and also collected Rs.1.42 lac and returned total amount of Rs.7.42 lacs to

Balwinder Singh on 14.11.2013 but Balwinder Singh, Rajvir Singh, Gurminder Singh and Nirmal Singh misused the blank cheques issued by Didar Singh and Nirmal Singh presented the same at Mandi Gobind Garh in the HDFC bank and got them bounced. Nirmal Singh also filled the amount of Rs.9.50 lacs in a blank pronote of husband of the complainant and filed a case at Amloh and the same now fixed for 13.6.2016. Then Gurminder Singh and Balwinder Singh prepared an agreement to sell on the blank stamp papers of the husband of the complainant for a consideration of Rs.70 lacs and made witnesses of the same to Sant Singh Sarpanch and their relative Hardeep Singh Faslapur and filed a case before Amloh Court and got stayed of 26 bighas, the entire land of Didar Singh, husband of the complainant, situated in village Ladpur and the same is now fixed for 23.8.2016 photostat copy of the same is annexed. Now the other party Balwinder Singh and others are threatening to Ramandeep Kaur and her husband Didar Singh that if they will take any action against them, then Balwinder Singh will get them murdered. It has come out that Balwinder Singh, Rajvir Singh, Gurminder Singh and Nirmal Singh are giving money to people on interest and later on are filing cases against them on the basis of documents and blank cheques obtained by him as guarantee in connivance with Sant Singh and Hardeep Singh by putting their false witnesses. If it is accepted, under appropriate sections a case be registered

against Balwinder Singh, Rajvir Singh, Gurminder Singh, Sant Singh, Hardeep Singh and Nirmal Singh and it is recommended that SHO Amloh to take further action. Report is submitted”

4. Learned counsel for the petitioners has vehemently contended that the petitioners are only the witness to agreement to sell but are not the beneficiaries in any manner of the alleged transaction. He further contends that they have been falsely implicated in the FIR though have not committed any wrong. It is his assertion that in fact, Didar Singh, husband of the complainant, intended to sell his land measuring 16 bighas 18 biswas for which he approached the co-accused of the petitioners namely Balwinder Singh and Gurminder Singh (who are petitioners No.1 and 3 in CRM-M-38148-2016) who on certain assurances agreed to purchased the land. Accordingly, an agreement to sell was executed on 07.08.2013, which was signed by Didar Singh and in the presence of witnesses he received Rs.40,00,000/- as an earnest money from the co-accused of the petitioners. It is further asserted that Didar Singh at the time of execution of agreement to sell has given assurance that he will repay the loan before getting the sale deed executed, who had also asked for extension of time and more money. Further a sum of Rs.30,00,000/- was given to Didar Singh and the date for execution of sale deed was fixed as 01.02.2016. On that date, the co-accused of the petitioners were present but Didar Singh, husband of respondent No.2-complainant did not come present and, thus the sale deed could not be executed.

5. Learned counsel also brought the fact before this Court that the petitioners have already filed a case for specific performance before the

Civil Court on 05.02.2016, wherein, a direction was granted to maintain the status quo regarding alienation, transferring, mortgaging, exchanging and leasing out the same property and the complainant was fully aware of the said fact.

6. To strengthen his contention, learned counsel for the petitioners has relied upon the judgment of the Apex Court rendered in the case of **“State of Haryana vs. Ch. Bhajan Lal & others; 1991 (1) RCR (Criminal) 383**, wherein, it has been held that the High Court can quash the FIR to protect the accused from malicious prosecution, if it is evident that criminal proceeding has been instituted with *mala-fide* intention to harass the person.

7. Learned State counsel has contended that during inquiry into the allegations the version given by respondent No.2-complainant was found to be correct and true. It is submitted that the petitioners are shown to be the witnesses of the agreement to sell, which stood proved as false, forged and created by the petitioners and their co-accused with an intention to grab the landed property of Didar Singh. Learned State counsel concluded the submissions stating that the inquiry was conducted in the case in a fair manner and the petitioners have not been falsely implicated in the case and prayed for dismissal of the petition.

7. I have heard learned counsel for the respective parties.

8. In the exercise of the extra-ordinary jurisdiction, the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay

down any precise, clearly defined and sufficiently channelized and inflexible guidelines myriad kinds of cases wherein such power should be exercised as has been held by the Honble Supreme Court in "Hridaya Ranjan Pd. Verma & Ors. vs. State of Bihar and Anr.", 2000(2) R.C.R. (Criminal)

484:-

- (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 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;*
- (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."

9. On the strength of the arguments raised by learned counsel for the petitioners, it is evident that the dispute is purely of civil in nature. The co-accused of the petitioners namely Balwinder Singh and Gurminder Singh have already filed a civil suit for specific performance in which they have been granted the stay vide order dated 06.02.2016 passed by Civil Court. Apart from this, the reading of the FIR would also disclose a sheer abuse of the process of law by complainant/respondent No.2.

10. It would be apposite to mention here that while executing the agreement to sell the stamp papers were purchased by Didar Singh, husband of the complainant and at the time of purchasing the stamp papers, it was specifically written that these were for the purpose of execution of the agreement to sell. Even, the jamabandi of the land was also obtained by Didar Singh.

11. This Court is of the considered view after having discussion as made hereinabove and on examination of record on the case file that the complainant has maliciously instituted the criminal proceedings against the petitioners with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, as complainant/respondent was very well aware of the fact of pendency of civil

suit between the petitioners namely Balwinder Singh and Gurminder Singh (in CRM-M-38148-2016).

12. The allegations made in the FIR even if, taken on their face value and accepted in their entirety, must necessarily result in constituting a cognizable offence punishable in law and on this account alone, the complainant has failed. There is no doubt that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection in the rarest of rare cases and the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the complaint. It is also to be borne in mind that extraordinary and inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice, however, at the same time, if the allegations do not constitute any offence as alleged and appear to be patently improbable, the Court should not hesitate to quash the complaint. The test is whether the allegations in the complaint disclose a criminal offence or not.

13. A careful reading of the relief sought in the civil suit dated 05.02.2016, with a comparative study of allegations made in the FIR, it can be easily inferred after having very circumspect, cautious and careful approach that on examination of the FIR as a whole do not constitute any offence as alleged and appear to be absurd and improbable on the face of it.

14. After having given considerate thought to the facts and the case law, the afore-said petitions are allowed and FIR No. 68, dated 01.06.2016, under Sections 406, 420, 467, 468, 471, 120-B IPC, registered at Police Station Amloh, District Fatehgarh Sahib along-with all subsequent

proceedings arising therefrom are quashed qua the petitioners.

15. Ordered accordingly.
16. A copy of this order be placed on the files of other connected petitions.

01.06.2023
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No