



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

DATE OF DECISION: 02.07.2024

CRM-M-2629-2023

GURWINDER SINGH AND ANR. ...PETITIONERS

Versus

STATE OF PUNJAB AND ANR. ... RESPONDENTS

CRM-M-22586-2023

SUKHMANDER SINGH AND ANR.PETITIONERS

Versus

STATE OF PUNJAB AND ANR. ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amanpreet Singh, Advocate for the petitioners.
Mr. Japjot Singh, AAG, Punjab.
Mr. Sunny K. Singla, Advocate for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

1. Vide this common order, I shall dispose of both the aforesaid petitions together as both arise out of the same FIR.
2. Petition bearing No. CRM-M-2629-2023 has been filed by Gurwinder Singh and Bhinder Singh and petition bearing No. CRM-M-22586-2023 has been filed by Sukhmander Singh and Shamsher Singh under section 482 of the Code of Criminal Procedure for quashing of FIR No. 52, dated 06/08/2022, under Sections 420, 120B of the Indian Penal Code, registered at Police Station KotFatta, district Bhatinda and all consequential proceedings qua the petitioners.



3. Factual matrix of the case pertaining to the dispute between the parties are that the petitioner and the respondent No.2 entered into an agreement to sell property identified as Khewat No. 321/272, Khatuni Nos. 713, 714, 715, and 716, comprising an area of 31 Kanals approximately vide agreement dated 20.10..2021 (Annexure P-2). The consideration agreed upon was Rs. 20,80,000/- per acre. The respondent No., in accordance with the agreement, paid earnest money amounting to Rs. 13,00,000/-. Furthermore, over several occasions, the respondent No.2 effected additional payments totaling Rs. 7,50,000/- to the petitioners as a part of the earnest money for the said property. The date fixed for executing the sale agreement was 30/04/2022, which, being Saturday and the next day 01/05/2022, was a Sunday, further delayed the process. The respondent No.2 promptly informed the petitioners and appeared before the registrar on 02/05/2022 and 04.05.2022 to get the sale deed executed ready with the balance payment and registry expenses. However, the petitioners failed to present themselves. Consequently, the petitioners initiated Civil Suit No. 385/2022 in the court of the Civil Judge, Junior Division, Talwandi Sabo, where in order to maintain the status quo concerning the possession of the suit property was passed in their favor vide order dated 04.05.2022. The respondents then filed Civil Suit No. 493/2022 before the Additional Civil Judge, Senior Division, Talwandi Sabo, resulting in an order directing both parties to maintain the status quo regarding the alienation of the suit land until 02/07/2022 vide order dated 30.05.2022

4. Learned counsel for the petitioners argued that the agreement to sell dated 20.10.2021 (Annexure P-2) doesn't even bear the signatures of the petitioners in CRM-M-22586-2023 therefore no liability towards the



respondent No.2 in present case. He further argued that the respondent No.2 has failed to recognize the deceased father/grandfather of the petitioners who has been alleged to have taken an amount of Rs 2,00,000/- dated 10/01/2022 and Rs 2,00,000/- dated 14/02/2022 in the agreement to sell, the Death certificate dated 05/10/2016 (Annexure P-7) mentions the date of death for the Deceased is 18/09/2016. He further argued that the present case is purely of a civil nature as the offences under Sections 420, 120B of IPC are not made out there being no inducement to cheat and the FIR has been lodged only to give it a criminal colour and pressurize the petitioners to execute the agreement to sell in favour of the respondents/ complainant who failed to appear before the registering authority on the dates 02.05.2022 and 04.05.2022 to get the sale deed executed. Thus, it is submitted that the filing of the first information report is an abuse of process of law.

5. Learned Counsel for the State assisted by the counsel for respondent No.2 submits that the agreement to sell dated 20.10.2021 (Annexure P-2) is forged and fabricated document with the intention to cheat the respondent No.2 from the very beginning as the Accused-Petitioners are not the owners of the aforementioned 31 Kanal 00 Marla rather, the owners of the property measuring 29 Kanal and 10 Marla only. He further argued that the case involves disputed question of facts which can only be proved by leading evidence before the Id. Trial court and, therefore, the quashing of the proceedings is not warranted.

6. Learned counsel for the respondent No.2 submits that the present petitioner had the intention to alienate the property without executing the existing agreement to sell with the respondent No.2 vide



which the earnest money was paid. The petitioner in connivance with each other have defrauded the respondent No.2, therefore, the learned counsel prays for the dismissal of the petition.

7. Heard the learned counsel for the parties and perused the record.

8. The averments put forth by counsel for the petitioner carries no force as the land in question for which the alleged agreement to sell dated 12.10.2021 (Annexure P-2) was to be executed itself is disputed as the petitioners do not hold 31 Kanals and are only owner of 29 Kanals and 10 Marlas. Therefore, the alleged agreement to sell itself is a disputed document. Further there is a dispute in the alleged monetary transactions made in furtherance of the alleged agreement to sell as the alleged transactions were made in favour of the deceased Bhoga Singh for whom the death certificate has been attached (Annexure P-7). Also the specific role for the parties being present in the office of Registering Authority for executing the registry of the people as per the agreement to sell itself is also disputed. It is a matter where disputed questions of facts are involved in the case and can only be proved by leading evidence in the trial court therefore the relief for quashing of the FIR cannot be granted. The present case in hand does not qualify any of the criteria mentioned in the judgment therefore the petition being devoid of any merits is hereby, dismissed.

9. It is a legal precedent that powers under section 482 of the Code has to be exercised sparingly, carefully and cautiously and only when such exercise is justified. This principle has been settled in the landmark judgment of the Supreme Court passed in the matter titled as



‘State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335’, wherein it was held as under :

“102. In the backdrop of the interpretation of the various relevant provision of the code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 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.

(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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that 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 FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.'

10. However, the aforesaid observations will not affect the case of the present petition in the trial Court.
11. Petition dismissed.
12. A photocopy of this order be placed on the file(s) of connected case(s).

(SANDEEP MOUDGIL)
JUDGE

02.07.2024
anuradha

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