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

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Date of Decision:- 30.09.2024

Siddhartha Gautama Ahuja and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sangram S. Saron, Advocate with
Ms. Shubreet Kaur, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. P.P.S. Brar, Advocate for
Mr. K.B.S. Mann, Advocate
for respondents No. 2 and 3.

AMARJOT BHATTI, J.

1. Petitioners Siddhartha Gautama Ahuja and Gaurav Ahuja have filed petition under Section 482/483 of Cr.P.C. to quash and set aside impugned FIR No. 347 dated 10.12.2017 (Annexure P-4), registered at Police Station Adampur, Hisar, under Sections 120-B, 420, 467, 468, 471 of IPC, registered on the complaint of respondent No. 2 Mahabir, a third party, being not maintainable as well as impugned challan/final report dated 30.10.2020 (Annexure P-7) in aforesaid FIR and all consequential proceedings arising out of this FIR during the pendency of present petition.

2. As per the facts of case, aforesaid FIR was lodged on the written complaint filed by Complainant Mahabir against Siddharth Ahuja



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and Gaurav Ahuja, sons of Baldev Krishan Ahuja, for executing forged registered documents No. 2049, 2050 dated 11.11.2009 and document No. 1708 dated 29.09.2009 by taking Power of Attorney of a dead person. Complainant alleged that Banwari Lal was having 216 Kanal of land in village Mothsara in the year 2009 which was under the cultivation of Baldev Krishan Ahuja, resident of Fazilka. Gaurav Ahuja and Siddharth Ahuja are sons of Baldev Krishan Ahuja, who got a Power of Attorney registered vide document No. 430 dated 16.03.2007 in Tehsil Fazilka by showing Banwari Lal as alive and on the basis of said Power of Attorney, accused persons got the land registered in favour of Sangam Krishi Pvt. Ltd., Delhi and Space Infrastructure Pvt. Ltd. through Harish Kumar, vide registered sale deed dated 11.11.2009 vide aforesaid documents in Tehsil Adampur. Complainant alleged that he was aware of death of Banwari Lal who expired on 04.02.1999 as per Government record. He procured copy of Death Certificate of Banwari Lal. Aforesaid transaction was possible only due to connivance and collusion of accused persons with Government officials. It was prayed that inquiry be conducted and strict action be taken against accused persons. On the basis of this complaint, aforesaid FIR (Annexure P-4) was registered and after completion of investigation, challan was prepared under Section 173 Cr.P.C. (Annexure P-7) against accused persons namely Gaurav Ahuja, Siddhartha Gautam Ahuja (present petitioners), Rang Lal, Sita Ram and Ram Parkash.

3. Learned counsel for petitioners argued that registration of aforesaid FIR is misuse of criminal proceedings at the behest of respondent No. 2, who has no concern with transactions in question. Both petitioners



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are well-educated professionals running their business in New Delhi. Their father late Dr. Baldev Krishan Ahuja was a Professor, Head and Dean at IIT Delhi. Siddhartha Gautama Ahuja, petitioner No. 1 has done Bachelor's degrees from IIT Roorkee, whereas Gaurav Ahuja, petitioner No. 2 has done MBA Degree from the Faculty of Management Studies, University of Delhi. Since their birth, both petitioners have resided in Delhi and are now running their own software business in Delhi. During insurgency in Punjab in the year 1980, father of petitioners and his relatives exchanged their ancestral land in Punjab with land in village Mothsara, Tehsil Hisar, Haryana. Father of petitioners used to manage said land from Delhi with the help of Managers. Earlier, on the statement of Parampal Singh, FIR No.59 dated 10.03.2017 (Annexure P-1) was registered at Police Station Adampur, Hisar, under Sections 120-B, 420, 467, 468 of IPC against Banwari Lal, Surender Kumar and Vikramaditya. During inquiry, Vikramaditya, cousin of petitioners, was found innocent. Complainant Parampal Singh had disputed the exchange of land standing in the name of his grandmother Smt. Jai Kaur. Special Investigating Team was constituted. Copy of status report is Annexure P-2. In that status report, it was concluded that General Power of Attorney holder Surender Kumar appeared on behalf of Banwari Lal, whereas Bhupinder Singh General Power of Attorney appeared on behalf of Smt. Jai Kaur, as a result, land measuring 216 Kanal situated at village Siswal was exchanged. Smt. Jai Kaur received 194 Kanal 11 Marlas of land in exchange at village Tapakhera and same was duly incorporated in revenue record of District Muktsar, Punjab. Finally, cancellation report was presented in said FIR,



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which was duly accepted vide order dated 19.08.2021 (Annexure P-3), Sub para passed by learned Judicial Magistrate 1st Class.

Now Mahabir, complainant, who has no concern with property got registered FIR No. 347 dated 10.12.2017, registered at Police Station Adampur, Hisar under Sections 120-B, 420, 467, 468, 471 (Annexure P-4). Said Complainant Mahabir, respondent No. 2 is neither owner nor purchaser of land. He is not reflected in revenue record. In fact, he got FIR registered for extraneous reasons. There is a long delay in lodging present FIR. Said transactions took place in the years 2007 and 2009 and nobody raised any grievance until registration of FIR in 2017. No dispute has been raised by any of the legal heirs of Banwari Lal. Complainant has not suffered any loss. Father of petitioners late Dr. Baldev Krishan Ahuja was looking after the land and had conducted transactions in issue, who expired in the year 2012. Complainant remained silent during the lifetime of father of petitioners, and later on, he has chosen to launch impugned proceedings at a highly belated stage. In support of arguments, learned counsel for petitioners has relied upon the judgment of **Andhra Pradesh High Court 2021(1) ALT (Crl.) 169**, case titled **“Chekka Guru Murali Mohan and Anr Versus The State of Andhra Pradesh through SHO, CID PS, AP, Mangalagiri, Guntur District, Rep. by Public Prosecutor, High Court of Andhra Pradesh and Anr.”**, relevant para No. 93 runs as under :-

“93. Another significant fact needs to be noticed is that the sale transactions relate to sale of land that took place long back about six years ago in the year 2014. The owners of the land, who sold their lands, had absolutely no demur whatsoever from any quarter for all this length of time in respect of sale of the said



lands. They never expressed any grievance at any point of time earlier that they have been cheated by the petitioners by suppressing the fact that the capital city is going to be located in their area at the time of selling the lands. They did never raise their finger in this regard for all this length of time even after notifying the location of the capital city. Now, abruptly when some stranger lodged a report with the police who had nothing to do with the sale transactions, the sellers allegedly came up with the above said version before the police that they have been cheated by the petitioners by not informing them that the capital is going to come in their area at the time of selling their lands. So, in the said circumstances, the credibility and authenticity of the said belated version now introduced is really at stake. Therefore, the prosecution version now introduced by way of the said statements of the sellers would certainly be incredulous. If really they got grievance in this regard, they would have initiated both civil and criminal action in this regard long back when location of the capital city was notified on 30.12.2014 itself about six years back. They did not initiate any civil action to declare the sale as void on the ground of fraud or deception or on the ground of suppression of material fact. They also did not launch any criminal prosecution based on the above grounds. Therefore, the above belated version now introduced by the prosecution by way of alleged statements of sellers is far from truth. In view of the said reasons, it throws any amount of doubt on the justification of the de facto complainant who is a stranger to the said sale transactions in lodging the present report. Therefore, in the said circumstances, the contention of the petitioners that there are vested interests behind the de facto complainant who engineered the preparation of the said report lodged by him with a concocted story to illegally prosecute the petitioners cannot be completely ruled out.”



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Present petitioners were granted concession of anticipatory bail vide order dated 25.07.2019 passed in CRM-M-23622-2019 (O&M) (Annexure P-6). Without proper investigation, challan (Annexure P-7) has been presented erroneously. Learned counsel for petitioners also referred to the judgment of **Hon'ble Supreme Court of India**, case titled **"Mohammed Ibrahim and others Versus State of Bihar and another"** (2009) 8 Supreme Court Cases 751, relevant para No. 23 runs as under :-

"23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint."

Learned counsel for petitioners argued that, in fact, present petitioners have not committed any fraud or cheating with anyone. Continuation of criminal proceedings against them is misuse of criminal procedure. Therefore, aforesaid FIR alongwith challan/final report and consequential proceedings thereon are liable to be quashed.

4. On the other hand, learned counsel representing State filed their detailed status report alleging detailed investigation was carried out on receiving complaint. During course of investigation, Power of Attorney registered vide document No. 430 dated 16.03.2007 was obtained from the



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office in Tehsil Fazilka and statements of concerned witnesses were recorded. Said Power of Attorney was bearing signatures of Banwari Lal as if he was alive, stamp of Ex/M.C. of Fazilka, Mehar Chand, M.C. Fazilka and Rakesh Kumar as attesting witness. Investigation was carried out regarding aforesaid persons. Pal Singh and Mehar Chand had already expired and no clue could be found regarding witness Rakesh Kumar. Death report of deceased Banwari Lal was obtained from the office of Registrar Births & Deaths, Fazilka, according to which Banwari Lal expired on 04.02.1999, whereas Power of Attorney was created on 16.03.2007. Further investigation was handed over to Economic Offence Wing, Hisar. Copies of sale deeds No. 2049 and 2050 both dated 11.11.2009 and sale deed No. 1708 dated 29.09.2009 were taken into police possession and statements of witnesses were recorded. Investigating Officer procured certified copies of Mutation Nos. 746, 747 and 748 and statements of concerned witnesses were recorded. During investigation, record regarding exchange of land through Court and revenue record were collected. It was found that regarding Entries No. 276 dated 02.07.2002 and 569 dated 03.07.2002, presence of Banwari Lal was marked and record showed that Vikramaditya and Banwari Lal themselves appeared before the then Patwari along with Ranglal Nambardar, resident of Siswal and on the basis of mutual consent exchange of land took place. Said Rang Lal was also joined in investigation and was arrested. His disclosure statement was recorded. Other co-accused were also arrested. Petitioners did not join investigation. Later they joined investigation in pursuance of orders passed by the High Court vide order dated 23.05.2019 in CRM-M-23622-2019.



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Later on, Vikramaditya was found innocent. After completion of investigation, challan was presented on 30.10.2020 against present petitioners and co-accused namely Rang Lal, Sitaram and Ram Prakash. Learned counsel representing State reiterated that from investigation it was clear that petitioners along with other accused showed Banwari Lal to be alive on 16.03.2007 and got registered Power of Attorney on the basis of which petitioners sold the land in favour of Sangam Krishi Pvt. Ltd., Delhi and Space Infrastructure Pvt. Ltd., whereas Banwari Lal had already expired on 04.02.1999. It is pointed out that complainant/respondent No. 2 has no concern with land in dispute but this fact will have no effect on the registration of FIR. Considering the facts and circumstances of case, supported by documents, petition filed by petitioners deserves dismissal. Present petition is also opposed by learned counsel representing respondents No. 2 and 3. They have also reiterated the facts as detailed in status report.

5. I have considered the arguments advanced by learned counsel representing petitioners as well as learned counsel representing State of Haryana and learned counsel representing respondents No. 2 and 3 and have gone through the record with their able assistance.

6. Learned counsel for petitioners firstly referred to registration of FIR No. 59 dated 10.03.2017 under Sections 120-B, 420, 467, 468 of IPC (Annexure P-1) registered at Police Station Adampur, Hisar which was registered on the statement of Parampal Singh against Banwari Lal, Surender Kumar and Vikramaditya. In the said FIR, dispute between parties was regarding exchange of land between Jai Kaur and Banwari Lal



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situated in village Siswal, Tehsil Adampur, District Hisar and land situated in village Tapakhera, District Muktsar. In the investigation of that FIR, Special Investigating Team was constituted and ultimately FIR was cancelled by the orders of learned Judicial Magistrate Ist Class vide order dated 19.08.2021 (Annexure P-3). In the case in hand, matter in controversy is totally different and same cannot be correlated with aforesaid FIR. Firstly present petitioners prepared Power of Attorney bearing document No. 430 dated 16.03.2007 in Tehsil Fazilka, showing Banwari Lal as alive, whereas, as per record Banwari Lal had already expired on 04.02.1999. Secondly, on the basis of aforesaid Power of Attorney, petitioners along with other co-accused executed sale deeds bearing Nos. 2049, 2050 dated 11.11.2009 and No. 1708 dated 29.09.2009 vide which they sold the property belonging to Banwari Lal in favour of Sangam Krishi Pvt. Ltd., Delhi and Space Infrastructure Pvt. Ltd. through Harish Kumar. Aforesaid land is situated in village Mothsara and had nothing to do with property which was involved in FIR No. 59 dated 10.03.2017, registered at Police Station Adampur, Hisar. After completion of investigation, challan report was prepared under Section 173 Cr.P.C. (Annexure P-7) and was presented in the Court which is entirely based on documents.

7. Learned counsel for petitioners raised the issue that FIR has been registered on the complaint of Mahabir, respondent No. 2, who has no concern with property involved in this case. Therefore, he is third party to the matter in controversy. This argument advanced by learned counsel for petitioners does not convince the mind of this Court. It is not mandatory for



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registration of FIR that complainant must have concern with matter in controversy. Primary object of First Information Report is to set the criminal law into motion. Therefore, mere information regarding commission of cognizable offence is sufficient for registration of FIR, irrespective of its source.

8. Learned counsel for petitioners during the course of arguments further raised the issue regarding delay in lodging FIR. It is pointed out that disputed documents were allegedly executed in the year 2007 and 2009, whereas present FIR has been registered in the year 2017. In the case in hand, FIR has been registered under Sections 120-B, 420, 467, 468, 471 of IPC. Considering the nature of offence and punishment provided there under, bar for taking cognizance after the lapse of period of limitation as provided under Section 468 Cr.P.C. is not applicable to the facts of present case. Therefore, arguments advanced by learned Counsel for petitioners does not hold any ground. Considering the facts of case and matter in controversy, authorities relied upon by learned counsel for petitioners referred above are not applicable to facts of present case.

9. Present petitioners are prime accused in execution of disputed Power of Attorney registered vide document No. 430 dated 16.03.2007 allegedly of Banwari Lal, a dead person, on the basis of which disputed sale deeds were executed. Considering the nature of allegations, matter can be decided after recording of evidence led by the prosecution. Therefore, I do not find merits in petition filed by petitioners - Siddhartha Gautama Ahuja and Gaurav Ahuja seeking quashing of FIR No. 347 dated 10.12.2017 (Annexure P-4), registered at Police Station Adampur, Hisar,

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under Sections 120-B, 420, 467, 468, 471 of IPC, challan report/final report dated 30.10.2020 (Annexure P-7) and consequent proceedings and same is accordingly, dismissed.

10. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

30.09.2024

(AMARJOT BHATTI)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No