

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13855-2024
Reserved on: 01.08.2024
Pronounced on: 30.08.2024

Rajiv Gambhir ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Cheema, Sr. Advocate with
Mr. A.S. Cheema, Advocate
for the petitioner.

Mr. Aashish Bishnoi, D.A.G., Haryana.

Mr. A.D.S. Sukhija, Advocate
for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
18	14.09.2023	ACB Panchkula, District Anti Corruption Bureau, Haryana	120-B, 323, 364-A, 365, 384, 386 IPC (Section 8 of PC Act added later on)

1. Seeking quashing of FIR captioned above, the petitioner who claims to be a victim at the hands of conspiracy of respondent No.3 has come up before this Court under Section 482 CrPC.
2. Facts of the case relevant to decide the present petition are that FIR was registered against petitioner and Geetika Dahiya based on the complaint of respondent No.2. Petitioner and respondent No.3 were in touch with each other for the purpose of surrogacy of petitioner's child. In between respondent No.3 also came in contact of respondent No.2 in May, 2022. The reason for respondent No.3 coming in contact with respondent No.2 was that they were looking for life partners and had made searches through a web portal. Respondent No.2 was living in USA and respondent No.3 also reached California on 03.06.2022 where they got married online on 16.06.2022 through online web portal. On 17.06.2022, online marriage certificate was also procured and respondent No.3 planned to return to India on 08.06.2022 and after that never returned to USA. On reaching India, respondent No.2 came to know that respondent No.3 was aware of the massive properties of respondent No.2 and when she reached India, she discussed

about the properties of respondent No.2 in Chandigarh city with the petitioner. The pleadings also point out that when respondent no.3 returned India, she discussed the properties in Chandigarh city with the petitioner and as per State counsel, both of them hatched conspired to grab his property and for this purpose, petitioner visited USA in February, 2023 where he met respondent No.2 and persuaded him to come to India. In the meantime, relationships between respondent No.2 and 3 had gone sour and FIR No.17 of 2022 had been registered against him by respondent No.3. In that FIR, one Look Out Circular had also been issued against him. It appears that respondent No.2 was unaware about this LOC. On 08.03.2023, when he reached India, then he was arrested by Haryana Police. On 09.03.2023, he got bail and subsequently, he was allegedly taken into illegal custody by petitioner with assistance of his friend Jatin Chaudhary and was taken to his factory at Sampla where he was confined in illegal detention. A reading of the pleadings and the written synopsis also indicate that petitioner had forcibly taken signatures of respondent No.2 on around 10 agreements. One such agreement dated 01.08.2022 led to registration of this FIR which is claimed to be forged. State counsel submits that the agreement was prepared to nullify one gift deed dated 05.08.2022 which was got executed by respondent No.3, her mother-in-law i.e. mother of respondent No.2 under pressure of a false complaint filed by her against her mother-in-law on 27.07.2022 in connivance with police officials. A reading of the pleadings also indicate that after the execution of gift deed dated 05.08.2022, respondent No.3 had withdrawn the complaint. Although it is not directly related with the present FIR but it would be pertinent to mention that another FIR was also registered against respondent No.2 at the instance of respondent No.3 on the allegations of unnatural sex, domestic violence and as per the State, all this was done to grab the share of property of respondent No.2 and there was an involvement of a police officer where investigation is going on.

3. In the entirety of facts and circumstances of the case, petitioner seeks quashing of FIR captioned above on the allegations that no case is made out and secondly that there is now no dispute between him and respondent No.2 whose counsel submits that they would have no objection if FIR is quashed.

4. Counsel for the petitioner argued that infact the petitioner is also a victim of respondent No.3 and has lost massive amount of money and he has been duped of massive amount of money in this entire transaction where his intentions were never malafide and his interest were all bonfide.

5. Counsel for respondent No.2 submits that he has no objection in case above captioned FIR is quashed qua the petitioner for the reason that now they have realized that petitioner has no malicious intent and is prima facie one of the victim but this no objection is given subject to the clear cut condition that petitioner shall abide by all the

terms and conditions of the compromise entered between them and all undertakings made anywhere from time to time qua the petitioner. To this, counsel for the petitioner that they have no objection at all and they undertake to comply with the same.

6. At this stage, State counsel opposes the compromise on the ground that provisions of Section 8 of PC Act is also added and as such, FIR cannot be quashed. To this, counsel for the petitioner submits that allegations of corruption under Section 8 of PC Act are not against the petitioner and offence under Section 8 of PC Act is not at all attracted against him. Counsel further submits that petitioner is well established businessman and the continuation of present FIR severely impacts his business dealings because of the sensitive nature of business he is carrying out.

7. Counsel for the petitioner further submits that it was obligatory for the Investigator to absolve the petitioner under Section 169 CrPC but he has failed in its statutory duty to do so and as such they are forced to come to this Court seeking similar relief. Counsel for the petitioner further argued that dismissal of closure of FIR against the petitioner is just like absolving him of the offence and would have no bearing at all against other provisions of law including PC Act which was never raised against the petitioner. An analysis would clearly point out that there is prima facie evidence of Section 8 of PC Act registered because of the conduct of the petitioner. Infact it was respondent No.3 who was responsible for entering into conspiracy with some police officer to allegedly grab the property of respondent No.2 with whom she had allegedly married by deceiving him with intention to grab his properties. Petitioner had nothing to do with the marriage of respondent No.2 with respondent No.3 and his allegations against him is that he was one of the prospective buyers. Although initial contact of petitioner with respondent No.3 was for the purpose of surrogacy but once respondent No.3 had married respondent No.2, there would be no question of such surrogation. However it is clear that respondent No.3 took advantage of her contact with petitioner and in him she found a suitable buyer for the property and also took advance from him which according to counsel for the petitioner was in crores.

8. Given above, more particularly the no objection of the complainant-respondent No.2 for quashing of FIR and even if all the allegations levelled against the petitioner are taken and accepted to be true on the face of it, he was only a prospective buyer of a property and there is no allegation that he was getting it at discounted price. The reason for petitioner to enter into agreement for sale was because he knew respondent No.3 initially and probably fell in her trap.

9. Given above, it is a fit case where the Investigator should have used his statutory obligation under Section 169 CrPC and should have absolved the petitioner from the

prosecution itself. Since it was not done, the petitioner was left with no option but to approach this Court under Section 482 CrPC. It is a fit case where continuation of petitioner's name in the list of accused in the FIR captioned above would be abuse of process of law.

10. Given above, petition stands allowed. FIR with all emanating proceedings qua the petitioner stand quashed. Bail bonds/surety bonds, if any furnished are discharged. It is clarified that this order does not imply the removal of any provision of IPC or PC against any of the other accused. This order shall not be a ground for other accused to also come to this Court or closure or absolve them or to close the proceedings against them on the basis of this order.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.