

2024:PHHC:023011

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15884-2022(O&M)
Date of Decision : February 06, 2024

Neeraj Puri and another

.....Petitioners

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. R.S.Bajaj, Advocate,
for the petitioners.

Mr. Digvijay Nagpal, AAG, Punjab.

Ms. Ekta Thakur, Advocate,
for respondent no.2.

KULDEEP TIWARI. J.(Oral)

1. The instant petition, as cast under Section 482 of the Cr.P.C., proffers the hereinafter extracted relief, as craved by the petitioner, inasmuch as, quashing of the FIR No.116, dated 15.06.2021, under Sections 417, 465, 468, 471 and 120-B of the IPC, registered at Police Station Haryana, District Hoshiarpur, and all subsequent proceedings arising therefrom, on the ground that FIR (*supra*) is a glaring instance of abuse of process of law, as in the instant FIR, a civil dispute has been given the colour of criminal offence.

2. Learned counsel for the petitioners submits that the documents which are *per se* admissible and attached with the instant

petition, clearly depicts that the petitioners are the *bona fide* purchasers of the land in question, therefore, putting them to face trial in pursuance of the impugned FIR, would be the travesty of the justice. Therefore, by referring to the law, as laid down by the Hon'ble Supreme Court in the case, titled as “**State of Haryana vs. Bhajan Lal, AIR 1993 SC 1348**”, the prayer has been made for quashing of the instant FIR.

3. *Per contra*, the asked for relief has been opposed by the learned State counsel, assisted by learned counsel for respondent no.2/complainant, on the ground that, the dispute involved in the instant petition, relates to transfer of a big chunk of land, which admittedly is in the ownership of the Provincial Government, and, he further submits that the issue which has been raised by the petitioners in the instant petition, is purely a disputed question of fact, which cannot be appreciated merely by exchange of affidavits, specifically, when the documents which are attached with the present petition, are required to be proved by way of leading evidence as per the requirement of the Indian Evidence Act, 1974.

4. Before embarking upon the process of evaluating the contentions as raised by learned counsel for the contesting litigants, and thereupon, penning down any opinion regarding validity of the impugned FIR, let us dive through the facts of the instant petition in detail.

5. The instant FIR, has been registered on the complaint made by Surinder Kaur-respondent no.2, wherein, she alleged that the

petitioners have illegally cut down 30 years old trees {of mangoes, Eucalyptus and Genus Populus (Poplar)} grown on the said land, and belonged to the complainant, and further the accused sold these trees. Petitioner no.2 in order to cheat, fraudulently got signatures of complainant/respondent no.2, on some blank papers, who, claims herself to be an illiterate lady, to create a document of transfer of the land in question in his favour. The relevant extract of the FIR reads as under:-

“Complaint No. 1994-PD dated 06.05.2021. To Worthy SSP Hoshiarpur. Sub: Complaint against Sh. Neeraj Puri s/o Yog Raj Puri r/o 437/438, Kalia Colony regarding illegal cutting of trees (Mango, Eucalyptus, Poplar), Mobile No. 83609-65591. Sir, it is humbly submitted that I Surinder Kaur d/o Late Sh. Milkha Singh wife of Sh. Mangal Singh am resident of Mander, PO Adda Kathar, District Jalandhar and submit as follows: (1) That I am the only daughter of my father Milkha Singh and I am sold legal heir of his property situated in Village Khakhli, P.S. Bagpur Sataur, District Hoshiarpur. Apart from me, there is no other legal heir. (2) That my father Milkha Singh had expired on 04.02.1995 in Village Mander. My mother Smt. Kartariji had predeceased him. (3) That the provincial government had allotted land to my father measuring 14 acres 2 kanals 8 marlas. The fard bandi and khasra girdawari of this land is in the name of Milkha Singh (by way of proof, copies of Fard Jamabandi and Khasra Girdawari and fees receipts are enclosed). (4) That on this land, there were about 30 years old Mango, Eucalyptus and Poplar trees on this land, whose market value was about 20-30 lacs which have been secretly cut by Neeraj Puri and Yog Raj Puri without informing us and further sold. By way of proof, the base of the said trees are still visible. (5) That in the said land, there were 4-5 mango trees laden with fruits. The same have also been secretly cut and sold by Neeraj Puri and Yog Raj Puri whereas the government has banned cutting of fruit bearing trees and mango trees. (6) That Yog Raj Puri had come to our house in the year 2010 and said to us that he is an officer in Red Cross. He said that your father Milkha Singh had been serving in the Army and fund had been received regarding his job. He also stated that earlier also funds used to come which did not reach us. However, now I have specially come for your sake and have brought the fund of your father Sh. Milkha Singh. Subsequently, we came to know that the cheque given by him was from his own account. Simultaneously, he stated that I will have to go alongwith him to the office in Jalandhar Tehsil and PAN Card will also be required for this payment. He took me to some office and took my signatures on some blank papers and said that they were required for transferring amount in my account. He also stated that

applications have also to be sent on the same to the defence department. My PAN card was prepared. (7) That both the said accused took advantage of my illiteracy and took my signatures on some blank papers, which I had learnt at home. I cannot read or write anything else. Recently, I came to know that he has prepared my false power of attorney which I have got cancelled recently. I had given a complaint sometime ago also but I did not get any justice. Even though they have no proof of ownership, they have been secretly getting the trees cut and then sold them away and thus, committed fraud with us. I humbly request your goodself that with regard to the fraud committed with me by the above named accused in conspiracy with each other, selling the trees after cutting them secretly and misappropriating the sale proceeds, getting prepared false power of attorney and taking my signatures on blank papers, strict legal action may kindly be taken. Thanking you, yours faithfully sd/- Surinder Kaur d/o Late Sh. Milkha Singh w/o Mangal Singh r/o Village Mander PO Adda Kathar, District Jalandhar., dated 05.05.2021. Mobile No. 98764-34808. Today at the P.S. Today complaint No. 1994-PD dated 06.05.2021 from Surinder Kaur d/o Late Sh. Milkha Singh w/o Mangal Singh r/o Village Mander, P.O Adda Kathar, District Jalandhar submitted against Sh. Neeraj Puri s/o Yog Raj Puri r/o H.No. 437/438, Kalia Colony, regarding illegal cutting of trees (Mango, Eucalyptus, Popular) was received in the police station alongwith inquiry report. The complaint had been inquired into by Sh. Gurpreet Singh Gill, DSP (HQ) Hoshiarpur. In his inquiry, he has declared Neeraj Puri s/o Yograj Puri, Yograj Puri s/o Krishan Naryan Puri residents of 437/438, Kalia Colony, Amritsar Road, Jalandhar as accused. He recommended registration of FIR under sections 379, 420, 465, 468, 471, 188 IPC and also wrote for obtaining legal opinion of DA Legal on which the DA Legal recommended registration of FIR against accused Neeraj Puri and Yog Raj Puri u/ss 417, 465, 468, 471, 120-B IPC. The Worthy SSP, Hoshiarpur vide his office order No.1852-PC dated 14.06.2021 wrote, "SHO Haryana to register case and investigate". Upon which FIR No.116 dated 15.06.2021 was registered against Neeraj Puri s/o Yog Raj Puri, Yog Raj Puri s/o Krishan Naryan Puri r/o 437/438, Kalia Colony, Amritsar Road, Jalandhar at P.S. Haryana, District Hoshiarpur u/ss 417, 465, 468, 471, 120-B IPC after which original complaint alongwith inquiry report alongwith copy of FIR is being handed over to ASI Madan Lal/ 1278 Hoshiarpur for investigation. The officer and Control Room are being intimated through e-mail."

6. Learned counsel for the petitioners, by referring to the documents attached with the instant petition, submits that the facts in the instant petition are otherway round, and the instant FIR, has been registered by concealing the material facts.

7. He has further submitted that in the year 1962, land

measuring 114 Kanals 8 Markas was allotted to one Milkha Singh (father of the present complainant/respondent no.2, by the provincial government, and that Milkha Singh on dated 10.11.1992, entered into an agreement to sell with one Gurdial Singh, to sell the aforesaid land for a total amount of Rs.1 lakh, and he also received Rs.50,000/-, as earnest money from one-Gurdial Singh. Milkha Singh also executed a General Power of Attorney as well as a registered Will, both dated 10.11.1992, bequeathing his above said property, in the name of Gurdial Singh. The said Will was also supported by an affidavit sworn by one Smt. Kartar, Kaur alias Kartari, wife of Milkha Singh.

8. He has further submitted that on dated 14.02.1995, Milkha Singh died, leaving behind his wife Smt. Kartar Kaur and daughter Surinder Kaur respondent no.2, as his only legal heirs. And after the death of Smt. Kartar Kaur, Surinder Kaur-respondent no.2, is the only remaining legal heir of Milkha Singh.

9. He also submits that Gurdial Singh, who has purchased the land in question through a General Power of Attorney from Milkha Singh, also died leaving behind his widow daughter namely Shashi Bala, and two daughters namely Romia and Sonia. In the year 2009, Dr. Shashi Bala and above named two daughters executed an agreement to sell in favour of petitioner no.1, and they received the entire sale consideration amount from him, and thereafter, he was put in possession of the said land.

10. He also states that thereafter, petitioner no.1 continuously kept depositing *lagaan* of the said land with the revenue authority concerned.

11. Learned counsel for the petitioners has further drawn the attention of this Court to various documents, to submit that complainant/respondent no.2, on coming to know about petitioner no.1's possession on the land in question, she started creating hindrance, and petitioner no.1 in order to buy a peace agreed to pay a total sum of Rs.8 lacs to her (respondent no.2), in two installments by way of demand drafts. Thereupon, respondent no.2, executed a General Power of Attorney in the office of Sub-Registrar, Jalandhar in regard of the same.

12. He has also referred an affidavit (Annexure P-6), sworn in by respondent no.2/complainant, wherein, she has admitted the possession of petitioner no.1 on the said land in question.

13. Further, he has also drawn attention of this Court towards the pending civil litigation, wherein, interim stay was granted in favour of the petitioners, vide order dated 15.10.2019, to substantiate his arguments that the instant FIR, is a sheer result of a counter-blast to the civil suit filed by petitioner no.1.

14. On the other hand, learned counsel for respondent no.2/complainant submits that the petitioners are habitual offenders, as they have committed similar kind of offence with other person as well, which resulted into registration of FIR bearing No.176, dated

31.10.2012, under Sections 420, 120 of the IPC, at Police Station Maqsudan, Jalandhar.

15. Learned counsel for respondent no.2 further submits that the documents regarding transfer of property shown to have been executed by the complainant/ respondent no.2, is a result of fraud and the forgery committed by the petitioners.

16. Learned counsel for respondent no.2 draws attention of this Court to the report of District Attorney, Annexure P-15, wherein, it is categorically mentioned that the petitioners not only fabricated the property transfer documents, but also forged the revenue receipts.

17. As per the short reply dated 14.11.2022, by way of an affidavit of Mr. Surinderpal Singh, DSP (Rural), District Hoshiarpur, investigation in the instant FIR has already been completed and learned State counsel, on instructions, submits that the final report has already been presented before the *Illaqa* Magistrate concerned.

18. Be that as it may, this Court has examined the contentions raised by both the parties concerned, and the entire case file including pleadings of the parties, and also the reply filed by the respondent-State, and, is of opinion that the present petition deserves to be **dismissed**, for the reasons discussed hereinafter.

19. First of all, after the registration of the instant FIR, the matter was thoroughly investigated by the investigating authority concerned and the final report has already been filed.

20. It has further been informed by the respondent-State, through the above affidavit that the dispute revolves around a big chunk of property, belonging to the provincial government, and the matter pertaining to the possession of the same. Since the matter involved, pertains to the transfer of public property, and is of serious nature, therefore, the instant FIR has been registered against the present petitioners, only after obtaining the legal opinion from the District Attorney concerned.

21. The relevant extract of opinion of the District Attorney (Annexure P-15), reads as under:-

“As per the finding given by the enquiry officer, during the course of enquiry, the respondents Neeraj Puri and Yograj Puri were summoned to appear in the enquiry and to produce any witnesses or any documents in support of their claim. On 19.05.21, the respondents Neeraj Puri and Yograj Puri got recorded their statements before enquiry officer and produced one copy of receipt of lagaan (land revenue) allegedly deposited in the revenue department in the name of deceased Milkha Singh in which additional words "Marfat Neeraj Puri S/O Yograj Puri" i.e regarding the name of the person by whom it was deposited have been incorporated.

The statement of Sh. Deepak, sales clerk, tehsil office, Hsp has been recorded in which he has categorically stated that no name of person who deposited the land revenue in the revenue department in favour of Milkha Singh has been shown in the official record maintained in his office. The said copy of receipt was produced by the respondents before the enquiry officer which goes on to show that the said words "Marfat Neeraj Puri S/O Yograj Puri" have been incorporated by the respondents with intention to cheat the enquiry officer.”

22. The above made discussion transpires that all the issues which were raised before this Court, involves a number of disputed question of facts which cannot be adjudicated through the instant petition, filed under the provisions of Section 482 of the Cr.P.C., the

issue specially with regard to, whether, the documents which claims to be executed by respondent no.2, in favour of petitioner no.1, are fabricated one or are the result of fraud, or are voluntarily executed as claimed by petitioner no.1, all these issues can only be adjudicated by the learned trial Court concerned, upon appreciation of evidence.

23. Further, merely pendency of the civil suit *qua* the land in question, which belongs to the provincial government, does not entitle the petitioners to seek quashing of the instant FIR.

24. Therefore, this Court refrains to grant asked for relief and Consequently, the instant petition is **dismissed**. However, liberty is granted to the petitioner, to raise all the pleas raised through the instant petition, before the learned trial Court concerned, at an appropriate stage.

All pending application(s), if any, also stands disposed of.

February 06, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No