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

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**CRM-M No.46608 of 2017
Date of Decision: 11.11.2024**

Tara Singh and others ... Petitioners

Versus

The State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. A.K. Walia, Advocate,
for the petitioners.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

Mr. Chandan Singh, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (For short "Code") seeking quashing of FIR No.62 dated 29.06.2017 registered under Sections 420, 465, 467, 468, 471 and 120-B of IPC at Police Station Bhikhi, District Mansa and all the consequential proceedings having emanated therefrom.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR has been registered at the instance of complainant Labh Singh who filed a written complaint alleging therein that his son Tara Singh @ Avtar Singh was residing in

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Australia for the last about one and half years. He owned 1/36 share in the agricultural land measuring 220 Kanals 14 Marlas situated within the revenue estate of Village Atla Kalan, Sub Tehsil Joga, Tehsil Mansa. The petitioner No.1 Tara Singh who was having some share in the land of the same khata, hatched a conspiracy with his sons Kaaramjit Singh and Amrik Singh to grab the share of land owned by the son of the complainant by taking advantage of the fact that the name of son of the complainant and the petitioner No.1 was same and executed a deed of transfer of that 1/36 share in favour of his sons Kaaramjit Singh and Amrik Singh vide a deed bearing No.1333 dated 10.03.2017. The co-accused Sher Singh, Namberdar and Gurcharan Singh were attesting witnesses to the said deed. The complainant alleged that when the petitioner No.1 Tara Singh, petitioner No.2 Kaaramjit Singh and the petitioner No.3 Amrik Singh tried to get the mutation of ownership of the said land sanctioned in the name of Kaaramjit Singh and Amrik Singh but the Village Patwari objected to the same, then instead of getting the transfer deed cancelled, the petitioner No.1-Tara Singh by concealing the factum of executing a transfer deed earlier, got one more transfer deed dated 05.05.2017 executed in the names of the petitioners No.2 and 3 who are his sons qua the land owned by him. By alleging that the petitioners in connivance with each other caused wrongful loss to the complainant/his son and cheated them and also committed offences of forgery, he prayed for taking action in the matter. A case under Sections 420, 465, 467, 468 and 471 read with Section 120-B of IPC has been

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registered against the present petitioners. Investigation has since been completed and the petitioners are facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioners that the land of Tara Singh son of the respondent No.2-complainant and the petitioner No.1 is part of a joint khata. Infact, the petitioner No.1 only wanted to transfer ownership of 25 Kanals 10 Marlas of land of his share in favour of the petitioners No.2 and 3 i.e. his sons but it was on account of mistake committed by the deedwriter Man Mohan Singh, who wrongly included the land owned by the son of the respondent No.2-complainant, that the transfer deed No.1333 dated 10.03.2017 was registered qua the said land also. It is submitted that when the petitioner No.1 came to know about this mistake, he had got it corrected by executing another deed bearing No.95 dated 05.05.2017 in respect of land measuring 25 Kanals 10 Marlas owned by him, in favour of his sons. Neither of the petitioners derived any wrongful gain by the transaction which was done due to mistake nor any wrongful loss had been caused to the complainant or his son. It is submitted that the ingredients for commission of offences of cheating and forgery have not at all been attracted. The petitioners No.4 and 5 are attesting witnesses who had bonafidely attested the transfer deed and no false document had been prepared or used by either of the petitioners. It is further submitted that the petitioner No.1 had even got cancelled the transfer deed bearing No.1333 by executing a cancellation deed dated 15.09.2017. It is argued that under the

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peculiar circumstances when the ingredients of commission of offences for which the petitioners have been booked and tried have not been made out as against them, their trial would amount to abuse of process of the Court and there are no chances of their being convicted. Therefore, it is urged that the FIR in question and the proceedings having emanated therefrom are liable to be quashed.

4. The respondent No.2-complainant has filed reply vehemently contesting the claim of the petitioners by submitting that the petitioners in connivance with each other got transferred the land belonging to the son of the respondent No.2 by executing a transfer deed No.1333 dated 10.03.2017. They even tried to get the mutation qua this land sanctioned in favour of the petitioners No.2 and 3 and the act of cheating and fraud as committed by them came to light only when the Halqa Patwari raised objection to sanctioning of the mutation. Learned State counsel assisted by learned counsel for the complainant has argued the trial is now at its fag end as it is posted for producing defence evidence. All the prosecution witnesses have been examined. The veracity of the allegations as levelled by the respondent No.2 has to be tested on thorough assessment and evaluation of the evidence produced during trial. No case for quashing of FIR has been made out. Therefore, it is urged that the petition is liable to be dismissed.

5. At the outset, it will be beneficial to look into the scope and ambit of the Court's power under Section 482 of the Code as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as

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different High Courts. The well settled proposition of law is that in exercise of inherent powers under this section, the High Court is not expected to analyze all the facts, which are placed before it and to not ordinarily embark upon an enquiry whether the evidence in question is reliable or not and whether on a reasonable appreciation of it, the accusation would not be sustained as that is the function of the trial Court. (See **State of Andhra Pradesh vs. Gourishetty Mahesh and others**, 2010 Criminal Law Journal 3844). The inherent powers under Section 482 of the Code can be exercised only when no other remedy is available to the litigant. Such powers are very specific and are meant to secure the ends of justice, to prevent abuse of process of Court or to pass such orders as may be necessary to give effect to any order under the Code. (See **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others**, (2011) 12 SCC 437). In **Gian Singh vs. State of Punjab**, (2012) 10 SCC 303, Hon'ble Supreme Court had observed that the inherent power under Section 482 of the Code is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Hon'ble Supreme Court in **Dr. Monica Kumar and another vs. State of U.P. and others**, (2008) 8 SCC 781, has propounded that the inherent jurisdiction under Section 482 of the Code, though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not

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permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to the whims and caprice.

6. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of the Code to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as **State of Haryana vs. Bhajan Lal**, 1992 SUPP (1) SCC 335, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

- (i). 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.
- (ii). Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.
- (iii). 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.
- (iv). Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer

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without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(v). Where the allegations made in the F.I.R. 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.

(vi). 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.

(vii) 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.

7. Reference can also be made to **M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others**, 2021 SCC OnLine SC 315:-

“57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;

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iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report, the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases, where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

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xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of **R.P. Kapur v. State of Punjab**, AIR 1960 Supreme Court 866 and **Bhajan Lal** (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether

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or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

8. In **CBI v. Aryan Singh**, 2023 SCC OnLine SC 379, the Hon'ble Apex Court observed that while exercising powers under Section 482 of Cr.P.C., the Courts have a very limited jurisdiction and are only required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not". In **Kaptan Singh vs. State of U.P. and others**, 2021 SCC Online SC 580 and **Dhruvaram Murlidhar Sonar vs. State of Maharashtra**, (2020) 3 SCC (Criminal) 672, it was observed that the appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of Cr.P.C. as this power is an exception and not a rule. Inherent jurisdiction under Section 482 of Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is also well settled proposition of law that the Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting the trial, at the stage of exercising powers under Section 482 of Cr.P.C. In order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the

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powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. In view of the well settled position of law as discussed above, the instant case has been considered and this Court has observed that the allegations against the petitioners are that the petitioner No.1 by hatching a criminal conspiracy with the petitioners No.2 and 3 who are his sons, executed a deed of transfer of land which was actually owned by Tara Singh son of the respondent No.2 complainant, by taking advantage of the fact that they were sharing the same names and also the fact that the son of the respondent No.2 was residing abroad. The police authorities after conducting thorough investigation in the matter have filed challan against the petitioners. Charges for commission of the aforementioned offences were framed against them and it has been very fairly conceded by the learned counsel for the petitioners that the trial is at its fag end as all the prosecution witnesses stand examined and only defence evidence by the petitioners themselves has to be adduced. At this stage, when the petitioners are before the trial Court since long and all that is left before the trial Court is the evidence to be adduced by them in their defence, this Court is not expected to exercise its inherent powers to quash the proceedings which even otherwise are required to be exercised in rarest of rare cases with extreme caution. It is not a case where no other remedy is available to the petitioners rather they have already availed the same by subjecting themselves to trial.

This Court is not inclined to embark on the question as to whether the

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evidence collected against the petitioners is reliable or not or whether the accusation would not be sustained in conviction as i.e. the function of the trial Court. The petitioners intend to stifle a legitimate prosecution at this stage which should not be allowed. Accordingly, finding no ground to interfere at this stage for quashing of FIR and the subsequent proceedings, the petition is dismissed.

9. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

11.11.2024
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(MANISHA BATRA)
JUDGE

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