

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24988-2024 (O&M)

Decided on 16.10.2024

Anil Kumar & Anr.

... Petitioners

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Gurjinder Singh, Advocate for the petitioners

Mr. Jaspal Singh Guru, AAG Punjab

Mr. Anil Mehta, Advocate,
Mr. Prashant Kapila, Advocate and
Ms. Livleen Kaur, Advocate for the complainant (through VC)

Sandeep Moudgil, J.

(1). This is a petition under Section 482 Cr.P.C. for quashing of FIR No.26 dated 31.01.2024 (Annexure P5) under Sections 420/465/467/468/471/474/120-B IPC, registered at Police Station City Kharar, District Mohali and all the consequent proceedings arising therefrom.

(2). Learned counsel for the petitioner contends that FIR No.28 dated 01.07.2023 was lodged alleging that complainant-Ramesh Kumar Garg and his wife Poonam Garg gave the Special Power of Attorney to the petitioners and on the basis of this SPA, the petitioners applied for the colony to be carved out in Kurali, SAS Nagar and applied to the Municipal Committee, Kurali for the formation of the Colony without the knowledge or permission of Ramesh Kumar Garg and his wife Poonam Garg and in the present FIR also, the same special power of attorney is alleged to have been forged and fabricated by the petitioners in respect of the same immovable property.

(3). The argument raised is that since the complainant has already got lodged FIR leveling similar allegations as in the present FIR, the second FIR is not maintainable and is violative of the mandate given by the Supreme Court in **Tarak Dash Mukherjee & Ors. vs. State of UP & Ors. 2022 LiveLaw SC 731** which held that there cannot be two FIRs in relation to the same occurrence or different events or incidents but forming part of the same transaction and as such, the lodging of second FIR was held to be contrary to the very spirit of Section 154 of CrPC. Therefore, it is urged, that the present FIR deserves to be quashed on this ground alone.

(4). Reply dated 30.08.2024 has been filed Karan Singh Sandhu, DSP, S/D Kharar-I, SAS Nagar wherein it has been averred that in the preliminary enquiry conducted on the representation made against the petitioners it was found that complainant Ramesh Kumar Garg and Anil Kumar Tiwari were business partners to buy and sell the properties together. It was also mentioned that land measuring 26 kanal 6 marla is registered in the name of the complainant party in Kurali Ward No.6, Tehsil Kharar, SAS Nagar and that FIR No.28 dated 01.07.2023 under Sections 406/420/468/471/120-B IPC was already registered at PS City Kurali by the complainant for submitting documents with fake signatures of the complainant before Municipal Council Kurali for getting the colony approved in the land of the complainant party.

(5). It has also been mentioned in the reply that accused Vishal Tiwari sought anticipatory bail on the basis of Special Power of Attorney which was shown to be executed by Poonam Garg and the complainant with him, however, as per the said SPA, Anil Kumar Tiwari, was shown to be authorized for getting the colony passed through Town Planning or PUDA. It further

came to light that the said SPA was purportedly drafted/executed on 08.06.2006 whereas as per the passport, Poonam Garg went to Canada on 19.03.2006 and came back to India on 19.12.2006 which itself establishes the fact that the alleged SPA was a fake document inasmuch as the same was never executed in the presence of the complainant party.

(6). Further, in the inquiry conducted in FIR No.28 dated 01.07.2023, it was found that the allegations leveled by the complainant are with regard to fake signatures of the complainant on the documents which were submitted before the Municipal Council Kurali for getting the colony approved. It was found that the petitioner Anil Tiwari prepared application form and affidavit with fake signatures of the complainant party without their consent and thereafter sold the plots to buyers and obtained amount of sale consideration from the said buyers.

(7). Taking into consideration the totality of the circumstances and the inquiry conducted by the police, it can be safely inferred, though *prima facie*, that the petitioner Anil Kumar Tiwari was involved in preparing fake and forged special power of attorney and it was on this ground that he concealed and manipulated the facts and sought anticipatory bail from this Court in CRM-M-46742-2023. Therefore, the petitioner cannot allege that the instant FIR has been lodged on similar facts as they apparently played fraud with the Court. The allegations in both the FIRs are comparatively different and *prima facie* it seems that the different cause of action arose with the complainant. Inasmuch as, it will be crucial get the alleged forged SPA compared from the FSL for investigation.

(8). It is for the trial court to decide whether the subsequent FIRs are in terms of the same incident in which an FIR has already been lodged based on the principle of ‘sameness’ and ‘test of consequences’. That apart, the question whether the subsequent FIRs are based on the same incident or are in consequence of the first FIR is a mixed question of law and facts which cannot be decided by this Court exercising inherent jurisdiction.

(9). There is thus no merit in the submission made by the petitioners and the petition is accordingly dismissed.

16.10.2024

V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No