

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CRM-M-8732-2016 (O&M)  
Date of decision:- 28.02.2024

Dayanand

...Petitioner

Versus

State of Haryana and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Rajesh Khandelwal, Advocate  
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Prayer in the petition is for quashing of FIR No.192 dated 09.10.2013 (Annexure P-1) under Sections 420, 177, 181, 200 of Indian Penal Code registered at Police Station Sector 55-56, Gurgaon, District Gurgaon along with all the subsequent proceedings arising therefrom.

2. As per the contents of the FIR, it has been alleged as under:-

*“Sir, Facts of the present case are that this case has been registered on the complaint of Narinder Singh Yadav, Estate Officer-2, HUDA Sector 56 Gurgaon against 1. Sh. Geeteshwar Anand s/o Kamal Sh. Kishore Anand r/o H.No.276/14 Gurgaon 2. Capt. L.S. Yadav s/o Shri Hari Singh GS03 (ops) HQ 18 Infan Tary Division C/o 56 APO 3. Maj. Saa Nand Dua s/o Sh. Ram Lal Dua r/o 29 HB Colony Vidyut Nagar Hisar. 4. Sh. Dharamvir Singh s/o Amir Singh r/o H.No.248 Hanuman colony near T.B. Hospital Rohtak 5. Mahender Singh Yadav s/o D.R. Yadav r/o A 1416, DLF PH-I, Gurgaon 6. Cap. Satish Kumar s/o Sh. Daya Nand Saini r/o Village Dhama Kalan, the Hansi Distt. Hisar 7.*

*Sh. J.K. Pathak s/o Sh. Raj Kumar r/o H.No.61, Block J, NIT No.2 Faridabad. 8. Sh. Anil Kumar s/o Umrao Singh s/o Umrao Singh, r/o 896 Adarsh Nagar, Qutubpur Rewari. 9. Smt. Kamla Devi w/o Late Jai Krishan Dagar r/o Village Alipur PO Ghamro Distt. Gurgaon 10. Sh. Suresh Kumar Mehra s/o Sh. Dalip Singh Mehra r/o Village Rukhi the Gohana Distt. Sonapat 11. Sh. Surjan s/o Ram Singh r/o 1752, Rajeev Nagar, Gurgaon 12. Sh. Surjan s/o Ram Singh r/o 623/21, Ashok Vihar Gali No.2 Opposite Shivshakti School, Mehalana Road, Sonapat. 13. Sh. Ashok Kumar Kuwar s/o Sh. Jagpal Singh r/o C/o Inder Singh Assistant Controller VPO Khandrai, Tehsil Gohana Distt. Sonapat. 14. Sh. Mahender Singh Yadav s/o Sh. Raghubir Singh r/o 105 Pankaj Niwas Shakti Nagar Garhi Bolani Rd. Rewari. 15. Sh. Daya Nand s/o Sh. Sheo Ram, r/o VPO Dhnwapur Tehsil and Distt. Gurgaon., for committing fraud by giving false affidavit and investigation of the same was done by ASI Bijender Singh EOW Cell Sector 51 Gurgaon and in compliance of order passed by hon'ble Punjab and Haryana High Court, accused namely Lakhpatt Singh s/o Shri Hari Singh resident of 508/9 Shivpuri Gurgaon holding plot No.637 Sector 31/32A Plot No.550, Sector 39, Major Sada Nand Dua s/o Sh. Ram Lal Dua r/o 267A, Sector 46 GGN holding plot No.2671A Sector 46, plot No.190, Sector 43 Gurgaon, Dharamvir Singh s/o Amir Singh r/o H.No.6068, Davinder Vihar, Sector 56 Gurgaon holding plot No.181 Sector 27 Plot No.1725 Sector 57 Gurgaon, Cap. Satish Kumar s/o Sh. Daya Nand Saini r/o Village Dhana Kalan, P.S. Hansi, Distt. Hisar holding plot No.873 Sector 43 Plot No. 1017, Sector 38 Gurgaon, Jamwant Kumar Pathak s/o Sh. Raj Kumar r/o 476, Sector 13 Kurukshetra holding plot NO.810 Sector 57 Gurgaon, Plot No.1085 Sector 38 Gurgaon, Anil Kumar s/o Umrao Singh r/o H.NO.896*

*Adarsh Nagar, Qutubpur Mohalla, Rewari holding plot No.524 Sector 47, Plot No. Sector 42, Suresh Kumar Mehra s/o Sh. Dalip Singh Mehra r/o H.No.523 Sector 14 Sonapat holding plot No.521 Sector 47, Plot NO.810, Sector 46 Gurgaon, Surjan s/o Ram Singh r/o Village Chirasamin P.S. Ganaur, District Sonapat holding plot No.177 Sector 43 Gurgaon and plot No.3036 Sector 57 Gurgaon and plot NO.1058 sector 39, plot NO.877 sector 47, Dayanand s/o Sheoram r/o 2981, Sector 4 HUDA Colony Gurgaon holding plot No. 678 Sector 47, Plot No. 1129 Sector 38 Gurgaon, Plot No.585, Sector 42 Gurgaon were joined in investigation and accused by giving false affidavit has been allotted more than one plot in reserved quota from HUDA Department. XXXXXX Against the accused, evidence has been collected and challan has been prepared under sections 420, 177, 181, 200 IPC after checking is being submitted before the Hon'ble Court for arrest.”*

3. While assailing the FIR, learned counsel for the petitioner contends that the registration of the present FIR amounts to double jeopardy and is nothing but an abuse of process of law as the petitioner is already facing trial in FIR No.25 dated 25.11.2012 registered for the offences punishable under Section 193 and 420 of the IPC registered at Police Station State Vigilance Bureau, Gurgaon involving same allegations.

4. Counsel for the petitioner further refers to affidavit dated 16-17/11/2023, filed by Kapil Ahlawat, HPS, Assistant Commissioner of Police, Sadar, Gurugram. The contents of the Para No.5 and 6 reads as under:-

*“5.That it is undisputed position that the FIR No.25 dated 15.11.2012 had been registered by the State Vigilance Bureau against the petitioner on the similar set of allegations, however, it shall be wrong to contend that the allegations are of the same act. The copy of FIR No.25/2012,Final report u/s 173(2) Cr.P.C. in FIR No.25/2012, FIR No.192/2013 and Final Report u/s 173(2) Cr.P.C. in FIR 192/2013 are being annexed herewith for the kind perusal of the Hon’ble Court as Annexure R1 and R4 respectively.*

*6.That the nature of offence committed by the petitioner as complained of in the FIR No.25 registered by the State Vigilance Bureau is same, however, the said FIR pertains to one more plot obtained by the petitioner in the scheduled caste quota at Sector-2, Bahadurgarh. Thus, the prosecution in FIR No.25 concededly being for the commission of similar kind of offence, is not for the same set of allegations.”*

5. Counsel for the State is not in a position to dispute the aforesaid fact. FIR No.25 dated 15.11.2012 has been placed on record as Annexure R1 along with reply. The same reads as under:-

*“To the Manager, SVB PS, Gurugram. It is kindly requested that an investigation S No.1 dated 08.04.2011, Gurugram, General Secretary, Haryana Government Vigilance Department and S No.58/23/2010 dated 01.04.2011 was received at Gurugram Department for investigation, which was investigated by the Inspector in which first allegations was that accused Dayanand Chowkidar by giving false affidavit and in connivance with official of HUDA department had been allotted the plot No.179, Sector-2, Bahadurgarh, Plot No.678 Sector 47 Gurugram and Plot No.1129 Sec 38 Gurugram in his name*

*and the Plot No. 3349 Sector 9, 9A, Bahadurgarh and Plot No. 585 Sector 42 Gurugram had been allotted to his wife. Whereas according to HUDA department only One plot can be allot to the single individual. In the investigation it was found that Dayanand Chowkidar S/O Shoeram, Residence of Danwapur, Schedule Caste was designated in HUDA department since 1986 as a Field Chowkidar at HUDA Sector 56, Gurugram was residing in House No.218, Huda Colony Sec 4 Gurugram. In the year 2001-02 Dayanand had filled the Form for taking plot in Gurugram and Bahadurgarh in his name as well as in his wife name, in which he had given an affidavit along with the form stating that he and his family member do not own any plot in the State of Haryana. Plot No.3394 Sector 9, 9A Bahadurgarh which is from Schedule Caste Quota was found to be allotted to Shrimati Prem Wife of Sh. Dayanand Resident of House No.241, Ward No.14, Gali No. 1, Block-C, Dayanand Nagar, Permanent Resident of Village Khugai, District Jhajjar, Currently resident of Deep Vihar, Najafgarh, Delhi on 11.02.2002. Plot owner Shrimati Prem wife of Sh. Dayanand is Designated as ASI in Delhi Police. The said plot is not in the name of wife of Dayanand Chowkidar, HUDA Department, Plot No.189 Sec 2, Bahadurgarh which is form Schedule Caste Quota was allotted in a draw to Sh. Dayanand S/o Sh. Sheoram on 04.10.2001. Plot No.678 Sec 47 Gurugram which is from Government Servant Reserved Quota was allotted in a draw to Sh. Dayanand S/O Sh. Sheoram on 27.01.2002. Plot No. 859 Sec 42 Gurugram which is General Quota was allotted in a draw to the accused wife Smt. Prem on 22.11.2002 who is a housewife. As per the HUDA Policy not more than one plot can be allotted from any quota can be allotted to any person or in his name of any of his family member. Dayanand S/o Sh*

*Shyoram residence of Dhanwapur by giving false affidavit and by deceiving the HUDA official had bought more than one plot in his name as well as in his wife name where as per the rule he should had cancelled the other plots after being allotted the first plot. Accused Dayanand S/o Sh Sheoram had sold the plot No.179 Sec 2 Bahadurgarh to Smt. Santosh Sharma and Plot No. 1129 Sec 38 Gurugram was sold to Smt. Pavitra Yadav by accused Dayanand. Accused wife Prem had sold the Plot No.58 Sect 42, Gurugram to Ravi Pardhan on 25.04.2003. At this time only Plot No.678 Sec 47, Gurugram is in the possession of the accused Dayanand which is empty. A suggestion to registered a case was recommended against accused Dayanand and his wife under Section 193, 420 IPC. An order to registered a case against the accused Dayanand Chowkidar was passed by General Secretary Vigilance Department Haryana Government vide letter S no.58/23/2010 and by Director Vigilance Department vide letter S no. 14272 dated 17.10.2012 under Section 193, 420 IPC. According to the order no 2661 dated 30.12.2012 of the Police and State Vigilance Bureau, Gurugram order were received and according a case was registered against the Dayanand S/O Sheoram, Schedule Caste Residence of Dhanwapur Village Distt Gurugram currently residing at House No.2189/04 Huda Colony under Section 193, 420 IPC and copy of FIR was sent to Id. Area Magistrate.”*

6. The Hon’ble Apex Court in case titled as **“Tarak Dash Mukherjee Vs. State of Uttar Pradesh”, 2022(3) Apex Court judgements (SC) 246**, submits as under:-

*“We have heard the learned counsel appearing for the petitioner who submitted that both the first and second FIRs*

*are based on the same set of facts and the same cause of action. Relying upon the decisions of this Court in case **Upkar Singh Vs. Ved Prakash (2002) 13 SCC 292 and T.T. Antony Vs. State of Kerala (2001) 6 SCC 181**, the learned counsel submitted that registration of second FIR is a gross abuse of process of law”*

7. A Coordinate Bench of this Court in case titled as **“Gurmail Singh Vs. State of Punjab and anr.” in CRM-M-45411-2021 dated 07.01.2022**, held as under:-

*“A perusal of the above judgment would show that it was observed in the Hon’ble Supreme Court of India that in case, with respect to one incident an FIR has already been registered, then a second FIR with respect to the same incident cannot be registered and in case the same is registered then the High Court while exercising its powers under Section 482 Cr.P.C. would be well within its rights to quash the second FIR. The same principle has been followed by the Hon’ble Supreme Court in the case of **“Amitbhai Anil Chandra Shah Vs. Central Bureau of Investigation and Anr.” reported 2013 (6) SCC 348**. Thus, in a situation where a second FIR is registered with respect to the same incident on which an FIR has already been registered, the petition for quashing of the second FIR should not be thrown out on the ground that the report under Section 173 Cr.P.C. has not been submitted.”*

8. Thus from the contents of the two FIRs, it is evident that the subject matter of FIR No.25 is also the subject matter of FIR No.192 which is later in time have been registered on 09.10.2013. In view of the aforesaid admitted position of facts, there is no doubt that impugned FIR No.192 dated 19.10.2013 amounts to double jeopardy and cannot be

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allowed to survive.

- 9. Resultantly, the same is ordered to be quashed.
- 10. Pending application, if any, shall stand disposed off.

(PANKAJ JAIN)  
JUDGE

28<sup>th</sup> February, 2024  
*spn*

Whether speaking/reasoned : Yes  
Whether Reportable : No