

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

121

2024:PHHC:017231

CRM-M-44614-2022

Date of decision: January 30, 2024

GULZARI LAL SAINI @ GULZARI LAL HALWAI

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vikas Bali, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-41387-2022 and CRM-730-2024

The instant applications have been filed under Section 482 Cr.P.C. for placing on record the documents marked as Annexure P-24 and P-25 and the additional facts along with the zimni orders from 11.10.2022 uptil 21.12.2023 marked as Annexure P-26 respectively.

For the reasons mentioned in the applications, the same are allowed and the said documents are taken on record.

CRM-M-44614-2022

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure to impugn the order dated 01.03.2019 (Annexure P-17) passed by the Court of learned JMIC, Malerkotla, whereby charges under Section 420 IPC were framed against the petitioner in FIR No.5 dated 21.01.2018, registered at Police Station City Ahmedgarh, District Sangrur. The petitioner is also impugning the order dated 08.02.2021 (Annexure P-21) passed by the Court of learned JMIC, Malerkotla, whereby upon an application for amendment of charge, amended charges under Sections 465, 467, 468, 471 and

201 IPC read with Section 120-B IPC in addition to Section 420 read with Section 120-B of the IPC were framed in the FIR. The petitioner is further seeking quashing of the order dated 03.12.2021 (Annexure P-22) passed by the Court of learned Additional Sessions Judge, Sangrur, whereby the revision petition preferred by the petitioner against the order of amendment of charge was dismissed.

2. Learned counsel for the petitioner *inter alia* contends that the learned trial Court erroneously charged him under Sections 420 and 120-B of the IPC, even though a perusal of the allegations levelled in the FIR reveals that the essential ingredients to attract the mischief of the aforementioned offences are *prima facie* not made out against the petitioner.

3. Additionally, learned counsel for the petitioner has asserted that co-sharers Gurcharan Singh and Isharpal Singh had authorized the petitioner by making him their General Power of Attorney (hereinafter referred to as 'GPA') with respect to the land in question and thus, there had been no concealment or fraud played by the petitioner. Moreover, the land in question did not belong to the complainant and even the suit filed by the complainant against the abovesaid co-sharers and the petitioner for declaration *qua* ownership of the property in question had been dismissed. The complainant's subsequent sale of the property vide sale deed dated 07.12.2018 clearly undermined the case of the prosecution. Furthermore, the charges had been amended by the learned trial Court by adding offences under Sections 465, 467, 468, 471 and 201 of the IPC read with Section 120-B IPC vide impugned order dated 08.02.2021, on the ground of alleged concealment of forged GPA, which was on the face of it erroneous as the GPA was readily available to the investigating agency. It has, thus, been vehemently argued by the learned counsel that no offences as alleged

under Sections 465, 467, 468, 471 and 201 of the IPC read with Section 120-B IPC would be made out and also proved against the petitioner during trial, given the aforementioned facts and circumstances.

4. I have heard learned counsel for the parties and perused the relevant material placed on record.

5. During the stage of framing of charges, the jurisdiction of a Court is confined to determining whether, based on the evidence collected by the investigating agency, there exists a *prima facie* case against the accused or not. At this stage, only a preliminary opinion has to be formed by the Court based on the evidence annexed with the challan and no exhaustive examination of the evidence produced before the Court is required to be done. Additionally, as per the settled law at the stage of framing of charges, the accused cannot be permitted to present any documents or material in their defense.

6. Coming to the instant case, the petitioner has raised factual issues regarding the ownership of the complainant over the disputed property as well as the GPA always being available to the investigating agency, however, these matters cannot be delved into by the Court at this stage. All these assertions which have been made before this Court can only be addressed during the trial when both the parties present their respective evidence, which would then be tested on the touchstone of cross-examination.

7. As a sequel to the above, the petition stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

January 30, 2024

Jaspreet Kaur

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No