



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

116

CRM-M-44906-2024

Date of decision: 17.09.2024

Subash Chander Dutta

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Rameeza Hakeem, Advocate with
Ms. Mahima Rai, Advocate for the petitioner.

Mr. Deepak Sabherwal, Addl. A.G., Haryana and
Mr. Anil Kumar Yadav, Addl. A.G., Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') for quashing of FIR No.144 dated 02.06.2024 under Sections 81/82 of the Registration Act, 1908 and Sections 177/420/423/467/468/471/120B of the IPC registered at Police Station Sector 40, Gurugram.

2. Learned counsel for the petitioner at the outset submits that the matter at hand is essentially a civil dispute, and furthermore, the complainant does not have any locus to lodge the FIR in question.

3. Learned counsel has further contended that a bare perusal of the FIR, annexed as Annexure P-1, does not disclose the commission of any cognizable offence, particularly under Sections 81 and 82 of the Registration Act, 1908 (hereinafter referred to as 'the Act'). It has been argued that Section 81 of the Act pertains exclusively to Registering officers, while the petitioner, being a private citizen and the duly elected President of Aparna Ashram Society (hereinafter referred to as



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'Society'), does not fall within the scope of this provision. Therefore, the invocation of Section 81 of the Act is entirely misplaced. Additionally, Section 82 of the Act, which concerns inquiries and proceedings under the Act, is equally inapplicable, as no such inquiry or proceeding has been initiated against the petitioner under the said Act.

4. Learned counsel for the petitioner has still further submitted that as per settled law, a Sub-Registrar has no authority to verify the truthfulness of the recitals in any deed submitted for registration. The scope of inquiry under Section 82(a) of the Act is strictly limited to the proceedings prescribed by the Act. Additionally, Section 34 of the Act does not empower the Registering Officer to inquire into the correctness of the statements made in a deed presented for registration. It has been asserted by the learned counsel that even if the entire case of the prosecution is accepted as true, the mere presence of false statements in a sale deed does not attract the offences alleged in the FIR.

5. It has still further been emphasized by the learned counsel that no act of forgery or impersonation has been committed by the petitioner, both of which are essential ingredients for invoking the mischief of Sections 467, 468, 471 of the IPC. As such, these offences are not attracted in the present case. In support, she has relied upon ***Satya Pal Anand Vs. State of MP : (2016) 10 SCC 767; Pushpavalli Vs. The Sub-Registrar, Gandhi Nagar, Bengaluru : ILR 2022 KAR 3923; Mt. Gobindia and others Vs. King-Emperor : 1942 SCC***



OnLine Pat 55; Sri Sathya Sai Central Trust, A.P. and another Vs. State of Karnataka by Nandi Giridhama Police Station, Chikkaballapur and another : ILR 2022 KAR 3127; Phoolmati and others Vs. State of UP and others : 2016 SCC OnLine ALL 2860; Vijay Kumar Ghai Vs. State of West Bengal : (2022) 7 SCC 124; Vesa Holdings Pvt Ltd and another Vs. State of Kerela and others : (2015) 8 Supreme Court Cases 293; State of Haryana and others Vs. Bhajan Lal and others : 1992 Supp (1) Supreme Court Cases 335 and A.P. Mahesh Co-operative Urban Bank Shareholders Welfare Association Vs. Ramesh Kumar Bung and others : (2021) 9 SCC 152.

6. On a pointed query put to the learned counsel as to what is the stage of trial, she has submitted that the matter is pending investigation before investigating agency. On a further query put to the learned counsel as to how the FIR in question can be quashed at such a nascent stage, she has asserted that an FIR can be quashed even at this stage in case an accused is able to demonstrate that the basic ingredients of the offences alleged are not made out, and that precisely is the case of the petitioner also.

7. I have heard learned counsel for the petitioner and perused the relevant material on record.

8. Prima facie, the allegations levelled against the accused, including the petitioner, are serious in nature and he appears to be a part of a larger conspiracy, involving multiple acts of fraud, misrepresentation, and conspiracy, aimed at illegally transferring ownership of valuable land belonging to the Society in Gurugram,



including violation of orders of Courts.

9. As per the complainant, the Society, a registered entity under the Societies Registration Act, 1860, owns a substantial piece of land measuring 192 kanals and 16 marlas in Gurugram. The Society was formed by Swami Dhirender Brahmchari, a Yoga Guru, for purpose of promoting Yoga and constructing buildings on the land for such activities. The property in question, situated in Sector 30, Gurugram, is central to the dispute.

10. As per allegations, on 14.12.2020, one K.S. Pathania (co-accused) submitted an application to the Deputy Commissioner-cum-Registrar, Gurgaon, seeking permission for manual registration of a sale deed concerning the land. This permission was allegedly obtained by K.S. Pathania based on false and misleading facts. He did not submit any documentation supporting his claim of being incapacitated by illness or his inability to physically attend for the registration process.

11. On 17.12.2020, Dr. Surya Prakash, an Advocate, filed a complaint with the office of the Deputy Commissioner, Gurgaon, highlighting these irregularities and requesting that the permission granted to K.S. Pathania be revoked. Subsequently, on 22.12.2020, a complaint was lodged by Tatvam Ventures Limited Company, pointing out that K.S. Pathania had concealed the pendency of legal proceedings qua the land in question and had submitted incorrect information in his application. Acting on these complaints, the Deputy Commissioner vide order dated 22.12.2020, revoked the permission for manual registration of the sale deed. Despite this order of revocation, the sale deed was



manually registered on 24.12.2020 in the office of the Sub-Registrar, Wazirabad, Gurugram.

12. Allegedly, the registration of the sale deed, which was executed for a total sale consideration of Rs.55 crores, was fraudulent, as no actual financial transaction took place. Although it was claimed that the amount had been paid through 29 different cheques, no such payment was made. The office of the Assistant Commissioner confirmed that the Sub-Registrar had been telephonically informed about the cancellation of permission before the execution of the sale deed. However, the officials at the office of the Sub-Registrar claimed that they had received no such communication.

13. The role of the petitioner, Subash Chander Dutta, who is allegedly one of the key accused, is particularly significant in this conspiracy. As defendant No.10 in the earlier Civil Suit titled as 'Aparna Ashram and others Vs. Shri Damodar Nigam and others' (Civil Suit No.125 of 2004), the petitioner was restrained by a Court order dated 16.12.2016 from interfering in the ownership and possession of the disputed land. Despite this, as per allegations, the petitioner along with co-accused K.S. Pathania, actively participated in executing the sale deed for the land in question, knowing fully well that they had no legal authority to do so. It is further alleged in the FIR that the petitioner had also appealed against the decision of the Civil Court, but later withdrew the appeal on 09.02.2021, thus, effectively acknowledging the validity of the decree that barred him from any involvement in the property in question.



14. In addition to his alleged involvement in executing the fraudulent sale deed, there are allegations that the petitioner conspired with other persons to conceal crucial documents and misrepresent facts to various authorities, including the Registrar of Societies and the Sub-Registrar. The documents relied upon for the execution and registration of the sale deed were allegedly forged, false, and illegal. By being a participant in this conspiracy, the petitioner allegedly played a pivotal role in the illegal transfer of the land, which was done without any legitimate financial exchange and in clear violation of various orders of the Court.

15. Furthermore, as per allegations, the petitioner and other accused, through their fraudulent actions, committed offences under Section 82 of the Act as well as under various Sections of the IPC. Additionally, there are also allegations inviting the mischief of offences under the Prevention of Corruption Act, 1988 as the actions of the accused indicate a deliberate attempt to defraud the public and misappropriate property for personal gain.

16. It is well settled that an FIR should not be quashed while an investigation is underway, as doing so would interfere with the investigative process. This Court must exercise its inherent powers under Section 482 of the Cr.P.C./528 of the BNSS with great caution, and only in exceptional cases where the FIR is manifestly frivolous or without legal basis.

17. It is imperative to allow the investigating agency to complete its investigation, gather evidence and present its findings

accordingly. Premature interference in the investigation could obstruct the discovery of relevant facts or evidence that may otherwise emerge.

18. Given the gravity of the allegations, the investigation should, therefore, be permitted to proceed unhindered. Prima facie, a perusal of FIR reveals commission of cognizable offences. Moreover, at this juncture, the question of whether any offence is specifically made out under Section 81 or 82 of the Act cannot be examined. Neither has challan been presented till date, nor charge has yet been framed.

19. As a sequel to the above, no ground is made out to quash the FIR in question. The instant petition stands dismissed accordingly.

20. 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.

17.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No