

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

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CRM-M-50995-2018***Date of decision: 03.09.2025***

Balwinder Kaur @ Binder Kaur

*.....Petitioner**Versus*

State of Punjab and Ors.

*.....Respondents***CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. Bhavesh Aggarwal, Advocate for
Mr. H.S. Batth, Advocate for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

Mr. Amit Arora, Advocate for respondent No.7.

VINOD S. BHARDWAJ, J (ORAL)

By way of filing the instant petition under Section 482 CrPC, the petitioner is seeking modification of the summoning order dated 01.06.2018 to the extent whereby respondent No.7 has not been summoned to face the trial in criminal complaint case No.15 filed under Sections 420,467,468,471,120-B IPC at P.S. Goindwal Sahib, Tarn Taran.

It is the case of the petitioner that a complaint under the aforesaid offences had been filed against the accused persons alleging that the petitioner solemnized marriage with her own wish and choice. Since that day, the accused persons, who are her maternal uncles and their sons, have been keeping a grudge against her and wanted to murder her and her husband. Even the petitioner and her husband were shunted out of the village and they are now staying at a rented



premises in Amritsar. It is further stated that the father of the petitioner owns 52K-19M of land at Village Voin Poin. It is stated that the said land had not been transferred by her father. However, the accused persons, in connivance with each, other got the sale deed executed from her father on the pretext of transfer of the land, by appending fake thumb impressions on 16.08.2002 for the land measuring 11K-13M.

It is submitted that the second sale deed was executed in respect of the land measuring 13K on 25.08.2002 in an illegal manner and was purportedly executed at 9:39 PM, which was beyond the official time for executing the sale deed, i.e. 5:00 PM. In order to establish her case, the petitioner led preliminary evidence whereafter the trial Court summoned the accused other than Ajit Singh-respondent No.7.

Learned counsel for the petitioner contends that the trial Court has failed to appreciate that respondent No.7 was the Deed Writer and thus he, in connivance with the other accused, committed fraud by tampering with the documents. The findings recorded by the learned trial Court are incorrect and based on an incorrect appreciation of the evidence and record.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

Before proceeding further in the matter, it would be apt to reproduce the contents of the complaint, which is annexed with the petition, and the same reads thus:

“Madam,

It is submitted that:

I Balwinder Kaur @ Binder Kaur, aged about 40 years, daughter of Mohan Singh wife of Balwinder Singh son of Surjan Singh, is resident of Village Voin Poin, Tehsil Khadoor Sahib, District Tarn Taran and at present resident of Bhai Manjh Road, Kot Mit Singh, Near Water Tank, Amritsar and submitted as under:



1. *That I am the permanent resident of abovementioned address and married.*
2. *That I solemnized love marriage with my wish and consent and from that time only all the accused persons, my parental uncles, sons of my parental uncles were keeping grudge and now also keeping grudge with me and want to kill me and my husband, due to this, they got me and my husband shunted out from the village and now I am residing with my husband in rental accommodation at Amritsar.*
3. *That the land of my father measuring 52K-19M, which is in Village Voin Poin, of which till now my father has not executed any sale deed in favour of anyone, but the accused persons in connivance and by playing fraud with my father and mother on the pretext of transferring the land has got executed the sale deeds. One sale deed which was executed on 16.08.2000 of land measuring 11K-13M that also got executed by the above mentioned by appending wrong thumb impressions.*
4. *That the second registry of land measuring 13 Kanals dated 25.8.2000, the time of the registration was mentioned as 9.39 pm. From which it is proved that this sale deed was also got executed from my father in wrongful manner, because the timing of the office of the Tehsil is upto 5.00 pm and after that the office of Tehsil is closed, then how sale deed can be executed 9.39 pm. In the same way, the third sale deed was executed on 24.8.2000, which was of about 8 Kanals of land, which was also got executed at 9.03 AM, which is wrong because the sale deeds are only executed from afternoon to till 5.00 pm. In the same way, the forth sale deed of land measuring 4Kanals 6 Marlas was executed on 24.8.2000, which was shown to be executed at 9.14 am. In the same way, two sale deeds dated 17.08.2000 regarding land measuring 19 Kanal 19 Marlas and of 4 Kanals on 31.08.2000 was shown to executed by my mother, which is incorrect, because my mother has also not executed any sale deed towards the above mentioned accused.*
5. *That all the sale deeds are got executed by the accused persons in wrongful manner and by playing fraud and no money was given to my father and mother according to the sale deeds.*
6. *That regarding this me and my mother also gave complaints to higher officials, but police have not taken any action against the accused persons. One complaint bearing No.49-DIG-BR dated*



25.01.2007 was submitted by my mother, regarding which, no action has been taken, one complaint bearing No.1167-DPO dated 18.10.2005 was submitted to DSP/TI, one complaint No.362-DC dated 12.07.2007 and one complaint No.112-DC dated 21.08.2007 are submitted to SP(D)/TI. Then on 20.11.2006, a complaint No.272-5-AP to SP/D and complaint No.795 to DIG/BR on 8.9.2006; but in all complaints, no action has been taken against the accused persons.

7. That my father passed away on 27.12.2002 and my mother is also very old and is unable to walk, that is why, she cannot approached to the higher officials because inspite of elapsing of so many years and inspite of filing so many complaints, no action has been by the police against the accused persons. Therefore, I am filing complaint in this Hon'ble Court.

8. That the above mentioned incidence is occurred in the jurisdiction of this Hon'ble Court and this Hon'ble Court has full right to entertain this complaint.

9. That the requisite court fee is affixed on the complaint.

10. That there is no delay in filing the complaint.

11. That this Hon'ble Court can take cognizance on the above mentioned offences.

So, it is submitted before you that all the above mentioned accused may be summoned and legal action may be taken so that justice be delivered to me.”

It is evident from the perusal of the aforesaid complaint that there is no allegation of any *mens rea* against respondent No.7, who is stated to be the Scribe of the sale deed. Further, even as per the deposition made before the trial Court, there is no allegation as to how and in what manner the Scribe shared the spoils or was in collusion with the accused persons.

Merely because respondent No.7 scribed the sale deed, at the asking of the parties, would not ipso facto attract *mens rea* on the part of the scribe. There has to be a conspiratorial act or a malicious intent based on the participation



of the Scribe in the commission of the offence, before he is to be summoned to face trial.

Moreover, the present complaint has been filed, aggrieved by the alienation of the land by her father in favour of the private respondents. No proceedings have been initiated by the petitioner to challenge the said sale deed. There is no evidence, on record of this Court, that any allegation of common intention or conspiracy has been specifically levelled against respondent No.7.

For summoning a person as an accused in a case, there has to be a *prima facie* role. He having only been involved in a chain of events would not be sufficient unto itself to summon a person to face criminal incarceration. Every criminal offence requires satisfaction of two elements, i.e an *actus reus* and *mens rea*. In the absence of established *mens rea*, an act done by a person, which by nature of his job, he is ordained to do, would not entail any criminal consequences for him.

Besides, the petitioner has also not been able to refer to any part of the evidence which established criminal participation of the respondent No.7. A mere naming of a person as an accused without satisfying the ingredients of the offence for which a person is being sought to be prosecuted, is not sufficient to summon a person and to force him to undergo agony of a criminal trial and to prove his innocence. There must be existence of a *prima facie* case to summon a person as accused. The allegation should reflect that but for any defence, the evidence, if unrebutted would lead to a conviction. Bald submissions and general allegations would not ordinarily be accepted to subject a person to rigors of a criminal trial. Needless to mention that summoning of a person to face criminal prosecution is not only detrimental to various civil liberties of an individual but is also socially stigmatic. The damage thus caused by mindless summoning may never be compensated even by an acquittal.



Finding no illegality in the order impugned, the present petition is dismissed.

September 03, 2025
manoj

(VINOD S BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No