



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CRM-M-27654-2025

DATE OF DECISION:23.05.2025

POONAM DEVI

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rakesh Dhiman, Advocate for the petitioner.
Mr. Chetan Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J

1. The instant petition has been preferred under Section 528 of BNSS, 2023 for quashing the impugned FIR No. 157 dated 05/05/2022 (Annexure P-1) registered under section 420 IPC at Police Station Rajendra Park, Gurugram and all the subsequent as well as consequential proceeding (Annexures P-2 to P-5) arising out of the above mentioned FIR.

2. The factual matrix pertaining to the present case is that the petitioner inherited agricultural land in Village Daultabad, Gurugram, after her husband's death and remained in lawful possession. She later sold this land to Randhir Singh, a fellow villager, through a registered sale deed in 2003. Randhir Singh subsequently sold the same land to Cold Wave Tradewings Pvt. Ltd. in 2010, also by a registered deed. The company's ownership was then officially recorded through mutation in the revenue records, completing the legal transfer of title from the petitioner to the company. At this stage, it is important to note that the complainants have filed FIR No. 157 dated 05.05.2022 at Police Station Rajendra Park, Gurugram, under Sections 420,



406, and 120-B IPC. The FIR alleges that while building boundary walls on the disputed property, the complainants were stopped by persons related to Smt. Channo Devi (the petitioner's mother-in-law), who claimed a one-fourth ownership share. The complainants further allege that Randhir Singh (the vendor and co-accused), in collusion with the petitioner, sold the property despite knowing about ongoing litigation and concealed this fact, thereby causing financial loss and deception. The complainants have requested strict legal action, and a copy of the FIR is attached as Annexure P-1.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and the dispute in question appears to be a purely civil matter that has been misrepresented as a criminal offence, as the complainant wants to settle his personal scores and has therefore, used the present FIR as an arm twisting method.

4. It is further argued that the petitioner's implication as an accused is a result of Randhir Singh's (the main accused) death and is merely an attempt to shift criminal liability onto someone with no legal connection to the disputed transaction. The petitioner had no role or involvement direct or indirect in the sale to the complainants and was neither a party nor an intermediary in that deal. The entire transaction was solely conducted by Randhir Singh, who was the lawful owner at the time, having acquired the property from the petitioner through a registered sale deed in 2003.

5. On the other hand, learned State counsel appearing on advance notice submits that the petitioner along with the main accused (since deceased) has defrauded the complainant by selling the piece of land which was subject matter of the litigation.

6. After considering the arguments from both sides, this Court is of the opinion that the submissions made by the petitioner's counsel are



unpersuasive. There are clear and specific allegations of cheating against the petitioner and her co-accused. Notably, the petitioner should not have entered into a sale agreement with the main accused, Randhir Singh, without disclosing the fact that civil litigation regarding the same land had been ongoing since 1999. This omission forms the basis for the direct allegations that the petitioner acted in collusion with the main accused to defraud the complainant.

7. As regards another contention that the dispute was primarily of a civil nature and civil suit is pending adjudication and the complainant intentionally resorted to criminal proceedings also does not hold good as mere pendency of a civil suit cannot be made a ground for quashing the criminal proceedings, as in this way the unscrupulous litigants, apprehending criminal action against them, would be encouraged to frustrate the course of justice.

8. In a criminal court the allegations made in the complaint have to be established independently, notwithstanding the adjudication by a civil court. If the complainant fails to prove the allegations made by him in the complaint, the accused/petitioner is entitled to discharge or acquittal but not otherwise. Additionally inherent powers for quashing the proceedings at the initial stage can be exercised only when the allegations made in the complaint or the first information report do not *prima facie* disclose the commission of a cognizable offence or the allegations are so absurd and inherently improper making out a clear case of false implication. It is permissible for a civil suit and a criminal case to proceed at the same time. This is particularly relevant when the same set of facts gives rise to both civil and criminal liabilities. The law does not prohibit the initiation of both types of proceedings concurrently, as they serve different purposes and can address different aspects of a dispute. This principle



is well established by the apex court judgement rendered in the case of “*P Swaroopa Rani vs. M Hari Narayana (2008) 5 SCC 765*”.

9. This Court is also conscious of the fact that the Police has the statutory right and duty under the relevant provisions of the [Code of Criminal Procedure](#) contained in Chapter XIV of the Code to investigate into a cognizable offence;

“i) Courts would not thwart any investigation into the cognizable offences;

ii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iii) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

iv) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

v) Criminal proceedings ought not to be scuttled at the initial stage;

vi) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

vii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;

viii) The functions of the judiciary and the police are complementary, not overlapping;

ix) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

x) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;



xi) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported.”

10. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR and should only see whether prima facie offence is made out at that stage or not. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

“i) The power under section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

*ii) However, at the same time, the court, if it thinks fit, regard being to the parameters of quashing and the self restraint imposed by law, more particularly the parameter laid down by Apex Court in the case of “**State Of Haryana And Ors vs Ch. Bhajan Lal And Ors**” **AIR 1992 SUPREME COURT 604** has the jurisdiction to quash the FIR/complaint;*

iii) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under section 482 Cr.P.C., 1973 only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

iv) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of



powers under section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India.”

11. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial Court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited.

12. In view of the discussion made herein above and the dictums laid down by the Apex Court, this court finds no cogent reason to interfere with the proceedings on going in this matter, as disputed questions of facts are involved that can only be adjudicated once the parties are able to lead the evidence before the trial Court.

13. Accordingly, the present petition stands dismissed.

14. Pending applications, if any shall also stands disposed off, accordingly.

23.05.2025
anuradha(a)

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>