

2025:PHHC:075840



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

134

CRM-M-29098-2025
DECIDED ON:26.05.2025

KEWAL KRISHAN

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. H.S. Sehgal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. PRAYER

The jurisdiction of this Court has been invoked under Section 528 of BNSS, 2023 seeking quashing the impugned FIR No. 02, dated 07.01.2022 (Annexure P-1) Under Sections 420 & 120-B IPC registered at Police Station Kotbhai, District Sri Muktsar Sahib and all consequential proceeding arising therefrom including police report/challan dated 25.04.2023 (Annexure P-2).

2. FACTS

The brief facts of the present case are that Guranditta Singh and Jagjit Singh, sons of Joginder Singh, lodged an FIR against nine individuals alleging that they purchased 20 Kanals of agricultural land from Basant Kaur (wife of Pritam Singh) through a registered sale deed dated 07.01.1993, and

another 16 Kanals through a sale deed dated 18.05.1995. The corresponding mutations were duly sanctioned in their names. However, it is alleged that Pritam Singh and Basant Kaur, in connivance with others, fraudulently executed a mortgage deed dated 29.01.1998 for 24 Kanals 5 Marlas of land including land already sold to the complainants in favour of Punjab Agricultural and Development Bank, Gidderbaha, and secured a loan of ₹2,10,000 on 17.03.1998. The loan was never repaid, and the Bank has now initiated proceedings to sell the mortgaged land, which includes the complainants' property. The complainants allege cheating and forgery by the accused. Hence the present FIR.

3. **SUBMISSIONS**
ON BEHALF OF COUNSEL FOR THE PETITIONER

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and has no nexus whatsoever with the alleged offence. It is submitted that the petitioner, who was serving as a Patwari in the Revenue Department at the relevant time, has been unnecessarily arrayed as an accused and made a scapegoat in a matter which, at its core, pertains to a civil dispute between the vendor and the vendees a dispute which now stands resolved.

It is argued that the petitioner has never prepared or issued the alleged *jamabandi* purported to be forged or fabricated. The investigation conducted by the police is stated to be perfunctory and incomplete, as the challan was presented on 25.04.2023 without awaiting the Forensic Science Laboratory (FSL) report concerning the alleged forged *jamabandi*.

Learned counsel submits that a bare reading of the FIR reveals that the entire controversy is civil in nature and has been given a criminal colour. It

is emphasized that even if Basant Kaur mortgaged excess land to the Bank and raised a loan thereon, the alleged loss can be compensated from the remaining estate left behind by her, now succeeded by her husband Pritam Singh.

Lastly, it is contended that the petitioner has not derived any benefit, directly or indirectly, from the alleged acts of Basant Kaur or her husband, and therefore his prosecution is wholly unwarranted.

ON BEHALF OF RESPONDENT-STATE

On the other hand, Mr. J.S. Rattu, Deputy Advocate General, Punjab appearing on advance notice has prayed for dismissal of the present petition stating that the petitioner has been rightly arrayed as an accused in the present case owing to his active role and involvement in the execution and facilitation of a fraudulent transaction, which has caused substantial loss and prejudice to the complainants. It is submitted that despite the land in question having already been sold to the complainants vide registered sale deeds dated 07.01.1993 and 18.05.1995, a forged and fabricated mortgage deed was subsequently executed on 29.01.1998 in favour of Punjab Agricultural and Development Bank, Gidderbaha, and a loan of ₹2,10,000 was obtained against the same. Crucially, this transaction could not have taken place without the active connivance or gross negligence of the concerned revenue officials, including the petitioner, who was serving as the Patwari at the relevant time.

Learned State counsel further contends that the petitioner's role in the preparation or attestation of the forged *jamabandi*, which formed the basis of the mortgage requires thorough investigation. The mere denial of involvement by the petitioner cannot be accepted at face value, particularly when the challan has already been presented before the competent court, and the matter involves allegations of fraud, misrepresentation, and manipulation

of official records.

4. ANALYSIS

After going through the submissions made by counsel for the parties, this Court is of the view that the present petition is devoid of merit and liable to be dismissed at the very threshold. The allegations in the FIR clearly disclose the commission of cognizable offences including cheating, forgery, use of forged documents, and criminal conspiracy under Sections 420, 467, 468, 471, and 120-B IPC. The petitioner, being the then Patwari, is alleged to have facilitated or permitted the preparation and use of forged revenue records (*jamabandi*) that formed the basis of a fraudulent mortgage, causing wrongful loss to the complainants. At this stage, the truthfulness or falsity of these allegations cannot be adjudicated, and doing so would amount to conducting a mini-trial, which is impermissible at the stage of quashing.

The Hon'ble Supreme Court in the case of “*State of Haryana v. Bhajan Lal*,” 1992 Supp (1) SCC 335, has held that FIRs can only be quashed in the rarest of rare cases where the allegations do not disclose any offence even if taken at face value. Similarly, in the case of “*Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*,” (2021) 6 SCC 116, the Apex Court cautioned that where a *prima facie* case is made out, criminal proceedings should not be scuttled prematurely.

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. 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*”.

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.”

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.”

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.

The petitioner's role in the alleged conspiracy is yet to be fully unearthed, particularly as the FSL report on the forged documents is awaited. Hence, interference at this premature stage would be wholly unjustified and against the settled principles of criminal jurisprudence.

Moreover, the attempt to portray the matter as a purely civil dispute is a deliberate ploy to avoid criminal liability. The fraudulent mortgaging of land, which had already been sold and mutated in favour of the complainants, clearly constitutes the offence of cheating and forgery, punishable under the Indian Penal Code. Further more, the complainants are now being subjected to recovery proceedings by the Bank for a loan they had no knowledge of or involvement in.

The plea that the complainants can recover their loss from other properties left by the deceased is both untenable and irrelevant to the present criminal proceedings. The prosecution has sufficient prima facie evidence to proceed against the petitioner, and the investigation is still underway,

including the awaited FSL report on the questioned *jamabandi*.

5. CONCLUSION

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.

Accordingly, the present petition stands dismissed.

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

26.05.2025
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*