IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

293 **CRM-M-51977-2023 (O&M)**
Decided on 01.05.2025

Devi Dutt Sharma .....Petitioner

VERSUS

State of Haryana ....Respondent

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CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. A.K Gupta, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

Mr. S.S. Salar, Advocate for the complainant.

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SANDEEP MOUDGIL, J (ORAL)

1. Prayer in the instant petition filed under Section 482 Cr.P.C is for quashing of FIR No.191 dated 12.05.2023 under Sections 420,467,468,471 IPC registered at P.S Chandimandir, District Panchkula and all consequential proceedings arising therefrom.

2. Prosecution story setup in the present case as per the version in the FIR is as under:-

> *...Respected Sir, it is respectfully stated that Devi Dutt son of Sh. Amar Chand, Village Kharog is retired from Revenue Department as Naib Tehsildar and with the motive to his own personal as well as to facilitate his family he tempered with the Revenue Records in connivance with some other persons as per the Jamabandi for the year 1965-66, whereby as per the Jamabandi Khasra No.175, Area 0.2 Biswa, which he made 2 Bigha in the Jamabandi during his service period and the names of his two unclesMadho and Ballu and Nand Ram, Shugan Chand, Mahima Dutt by deleting their names as cultivator and only the name of his father Sh. Amar Chand was added or the same was done in connivance with some other persons and by tempering with the Masavi of 1916-17 in the Bandobasti Record he*

mentioned a road from Morni to Tikkar Taal which road was made in 1994 or by cutting down a tartima towards the road and made Khasra No.180 measuring 6 Bigha related to his brother Desh Raj towards that road and one Khasra No.179 area measuring 10 Bigha is also made. Because, Devi Dutt was appointed as a Sadar Kanungo at Panchkula for a longer duration that without permission tempering with the record or in connivance with other person with the motive to facilitate his family these people illegally encroached the multimillion land of Forest Department measuring more than 20-25 Bigha and they also illegally encroached the water body made by forest department and Gram Panchayat by immediately getting vacated from the illegal encroachment a investigation should be conducted against Devi Dutt, Naib Tehsildar (Ret.) House No.1137/21, Panchkula by registering a case against him because in Village Kharog whatever land owned by the State Government there is not a single Khasra Number is mentioned in shizra or masavi except Khasra No.179 and 180 which belong to Devi Dutt and his family, it clearly shows that there is some kind of tempering with record. Note: A complete investigation should be conducted of all the records of Devi Dutt, Naib Tehsildar (Ret.) during his service carrier from Patwari to onwards. It never knows that how many records were tempered with Devi Dutt and how much property by this way. It is a matter of investigation, this matter should be got investigated by some independent investigating agency so that truth of his acts should come forward and the billion rupees land of Forest Department should got vacated from his illegal possession. Thanks. Applicant Tek Chand son of Sh. Kashi Ram..."

3. Learned counsel for the petitioner contends that from the bare perusal of FIR, it would reveal that the same pertains to the then revenue authorities working in Naraingarh Circle, District Ambala during the period of 1970-1971 wherein some mistake of figure in the preparation of new jamabandi from old jamabandis i.e. from 1970-1971 to 1975-1976 (Annexures P5 & P6) for village Bhoj-balag Hadbast No.325, Tehsil Naraingarh District Ambala had occurred. He

urged that the police is not having acumen to regarding the preparation of revenue documents which is otherwise regulated by the Punjab Land Records Manual.

4. It is argued that as per Para 7.60 and 7.62 of the aforesaid Manual and also Para 7.29 thereof, it has been specifically provided that in case if there is any error or ommission in the jamabandi prepared under Para 7.60, the same remains is required to be checked by the revenue authorites specified under Para 7.62 of the Manual i.e. the Assistant Collector and Collector of that area and a complete procedure has been evolved under Para 7.29 of hte Manual to rectify that mistake through *fard badr*. He vehemently contended that the allegations contained in the FIR are misguided and the grievance if any, with the complainant is nothing but a part of the revenue procedure for which remedial recourse is available for its invocation under Para 7.29 of the above-said Manual.

5. Reply dated 11.03.2024 has been filed by Manpreet Singh Sudan, IPS, Asstt. Supdt. Of Police, Panchkula wherein it has been categorically avered that in the enquiry conducted, a prima facie case was made out agaisnt the petitioner. It is also averred that the petitioner was appointed as Trainee Patwari at Tehsil Kalka, District Ambala (as it then was) on 04.03.1975 followed by his tenure as a “Office Staff” at the same office from 04.03.1975 till 31.05.1978 until he was fulfledgedly appointed and deputed as Patwari firstly at Tehsil Circle Bihta, Tehsil & District Ambala w.e.f. 01.06.1978 till 30.06.1979 and thereafter as Patwari at Majri Circle w.e.f. 01.07.1979 till 31.03.1982 which would be clear to depict that the petitioner working as Patwari in the year 1981 when the Revenue Estate of Bhoj Baalag, Morni was transferred from Tehsil Naraingarh to Tehsil Kalka vide notification dated 06.05.1981 (Annexure R2).

6. Learned State counsel along with Mr. SS Salar, Advocate for the complainant exhorted that the petitioner, while being posted as Patwari at Tehsil Kalka, had tampered with the revenue record i.e. Jamabandi for the year 1975-76

and 1981-82 where the area of Khasra No.175 was tampered and instead of “0-2” bigha, the expression “2-0” was interpolated. They averred that even the Naib Tehsildar, Morni vide letter dated 14.03.2023 (Annexure R3) had reported tampering in the above said jamabandis.

7. It is then urged that the petitioner had been evading the process of law as despite dismissal of his anticipatory bail petition by this Court vide order dated 31.08.2023 in CRM-M-29972-2023 (Annexure R4) and even by the Supreme Court vide order dated 25.09.2023 in SLP (Crl) No.11993 of 2023 (Annexure R5) whereby the Apex Court directed the petitioner to surrender before the trial Court, the petitioner has still not complied with the order dated 25.09.2023 of the Apex Court which shows that he has scant regard to the process of law.

8. Learned State counsel submits that the investigation in the present case is at initial stage as the land in question is yet to be demarcated for which, petitioner’s custody is necessary. He emphasised that in the FIR, there are allegations that the petitioner and his family members have also encroached upon 20-25 bigha of land of the Forest Department in Khasra No.179 and 80 and that the investigation is still going on this aspect and in such circumstances, the FIR needs to be sustained.

9. Heard learned counsel for the parties.

10. A complaint was made by Tek Chand s/o Kanshi Ram r/o Village Kharog Bhoj Baalag Morni, District Panchkula, pointing out that the present petitioner, who retired from Revenue Department, has tampered the revenue record to benefit him and his family members and the said complaint was culminated into the present FIR lodged in the year 2023 alleging cheating, forgery of valuable security and using as genuine a forged document. As can be seen from the reading of the FIR that as per the Jamabandi for the year 1965-66, the total area owned by the father of the petitioner namely Amar Chand was 2 biswa in Khasra No. 175, but

as per the jamabandi for the year 1975-76, 1985-86, the total area owned by the father of the petitioner was shown to be 2 bigha in Khasra No.175.

11. The petitioner has retired from service on attaining the age of superannuation w.e.f. 31.03.2012. The complaint has been filed in the March, 2022 raising the issue of interpolation and tampering in the revenue record in the jamabandis for the year 1975-76 and 1985-86 purportedly at the behest of the petitioner. This in itself raised serious question mark on the manner and style of working in the Revenue Department. Even the letter dated 14.03.2023 (Annexure R3) reporting incidence of tampering in the concerned revenue record does not specifically name the petitioner leaving it to be a matter of investigation.

12. Even as per the prosecution case, the petitioner was deputed as Trainee Patwari on 04.03.1975 at Tehsil Kalka and he came to be independently deputed as Patwari w.e.f. 01.06.1978 meaning thereby that the petitioner was not responsible nor was he present and had authority to deal with or enter or supervise the revenue entry for the period from 1975-1976. That apart, at the time of preparation of the jamabandis for the year 1975-76 and 1985-86, the same was attested as required under Para 7.62 of the Punjab Land Records Manual by three revenue officers, namely, (i) Halqa Patwari Mulkh Raj, (ii) Girdawar Inder Singh and (iii) Tehsildar Naraingarh. The relevant provisions of Punjab Land Record Manual is reproduced as under:-

> ***7.60. Preparation of the jamabandi***. *The jamabandi should be prepared in duplicate and one of the copies should be eventually filed in the district office and the other retained by the patwari. In the months of June, July and August the field kanungo should pay special attention to the detailed jamabandis, which are being prepared by his patwaris. He should attest all the entries holding by holding, in the presence of the zamindars concerned and see that due effect has been given to the mutations on which final orders have been passed by the 15th of June or the date approved by the Director*

of Land Records. His attestation should be made on the copy, which has eventually to be filed in the district office. This copy should contain his report to the effect that he has duly attested it, a list of errors discovered and alterations made being added in the kanungo's handwriting. A copy of this report signed by the field kanungo should be attached to the patwari's copy of the jamabandi. Any alterations that may be found to be necessary should be made at once in red ink by the kanungo in both copies of the jamabandi and signed by him. He is personally responsible that the patwari's copy tallies in all respects with the other copy. Fairing of the jamabandi by the substitution of a new page for one on which corrections have been made is absolutely forbidden.

7.62. Check of detailed jamabandis by revenue officers*. The tehsildar or naib-tehsildar in charge of the circle in which the village lies shall make his final attestation on the spot and shall observe the following instructions:-*

(i) At least 25 percent of the khatauni holdings should be read out on the spot and in the presence of the assembled right-holders,

(ii) At least 25 percent of the mutations attached to the jamabandis should be compared with the khewats concerned,

(iii) At least 25 percent of the khewat holdings should be compared with the old jamabandis,

(iv) At least 25 percent of the khewat entries in the original copy should be compared with the corresponding entries in the patwari's copy of the jamabandi.

The number of the field, the tatima shajras of which have been attested, must be specified as also that of the unattested mutations entered before the 16th June or the date approved by the Director of Land Records; of these there should be as few as possible. This check must usually be carried out in the cold weather months between the end of the kharif and the beginning of the Rabi girdawari. For the purposes of this check the revenue officer should take with him the copy of the jamabandi, which has been filed in the tehsil, and he should record on this the report of the attestation and

> *a list of mistakes discovered and alterations ordered. The report should specify what and how many entries were attested by personal enquiry from the right-holders and when and where the attestation was made. A copy of the report signed by the tehsildar or naib-tehsildar as the case may be should be attached to the patwari's copy of the jamabandi. Any alterations that may be found to be necessary should be made in both copies of the jamabandi and initialled by the revenue officer under whose orders they are made. When this has been done, the revenue officer should fill in two copies of the final attestation slip in the form given below and attach one copy to each of the two copies of the jamabandi..."*

13. A perusal of the above provision would show that it was incumbent upon the above-said revenue officer should take with them the copy of the jamabandi, which has been filed in the tehsil, and record on this the report of the attestation and a list of mistakes discovered and alterations ordered and thereafter the copy of the report signed by the Tehsildar or Naib-Tehsildar must be attached with the Patwari's report of Jamabandi and if there is any alteration, that must be made in both the copies of jamabandi under the signature of the above-said team of Revenue Officers under whose order they are prepared.

14. As can be seen, the team of Revenue Official comprised of Tehsildar, Girdawar and Patwari and a perusal of Annexures P5 to P7 nowhere depicts or establish that the said jamabandis were prepared or altered or revised etc. on the orders of petitioner, for, it was Mulkh Raj who, at the relevant time, was the Patwari and not the petitioner who came to be appointed as fulfledged Patwari from 1978 onwards.

15. Moreover, the Para 7.29 of the Punjab Land Records Manual do provide for the correction of clerical mistakes in the records to be obtained on the *fard badar* and in that case also, delving into the allegations contained in the FIR,

no case of cheating or forgery has been made out against the petitioner as the basic ingredient of Section 420 IPC are per se missing against the petitioner.

16. In view of the above discussion, the present petition is allowed and the FIR No.191 dated 12.05.2023 under Sections 420,467,468,471 IPC registered at P.S Chandimandir, District Panchkula and all consequential proceedings arising therefrom are hereby quashed.

17. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

01.05.2025
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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No