



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

245

CRM-M No.59578 of 2024 (O&M)
Date of decision: 02.05.2025

Kamna and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhishek Sharma, Advocate
for the petitioners.

Mr. Amandip Kaur, Advocate
for Ms. Nandini, Advocate
for the respondents No.8 and 9.

Mr. Sandeep K. Bansal, Advocate
for Mr. Sahi Soi, Advocate
for respondents No.10 and 11.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking issuance of directions to respondents No.1,2 and 4 to handover investigation of the FIR No.86 dated 24.04.2024 registered under Sections 406, 420, 120-B IPC at Police Station Navi Baradari, to some senior IPS officer posted outside District Jalandhar.
2. Briefly, the facts, as alleged, are that respondent No.8 presented himself to be the General Power of Attorney holder for one Surinder Kumar, that authorizes him to sell a plot situated in Ajit Vihar,

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Phase-I, Village Dhilwan, District Jalandhar. Believing the same, the petitioners entered into an agreement to sell dated 02.07.2023 with respondent No.8. In furtherance of the same, earnest money of a sum of Rs. 2 lakh was handed over, while the total consideration amount was Rs. 15 lakh. Thereafter, when Rs. 10 lakh were paid, respondents No. 8 and 9 started delaying the execution of the said sale deed. In the month of December, 2023, the petitioners got a gate installed on the property and initiated some construction work, However, they were harassed and stopped by police officials, in connivance with one Pritpal Singh. Subsequently, FIR(supra) was registered, however, in spite of the fact that none of the accused had applied for bail, they were not apprehended by the police.

3. Learned counsel for the petitioners *inter alia* contends that after the registration of FIR(supra), the petitioners found out that respondent No.10 is the real owner of the property in question. Further, she had issued a power of attorney in favour of her husband- respondent No.11, who further sold it to respondent No.12 vide sale deed dated 19.02.2024. The same was also registered subsequently in the name of respondent No.12 by respondent No.7. However, the mutations were wrongly sanctioned. Petitioner No.1 moved objections qua the same vide application dated 23.04.2024 moved before Assistant Collector, Jalandhar-1. Due to the lackadaisical approach displayed by respondent No.7 and other revenue officials, sale deed dated 19.02.2024 was



registered, in order to promote the illegal motives of the private respondents-accused.

4. *Per contra* learned State counsel submits that an SIT was constituted in December 2020 to investigate into the matter. However, it was found that respondents No.8 and 9 have moved to Canada. Subsequently, the concerned officers being transferred, the investigation could not be completed. However, he could not controvert the fact that neither any arrest nor any significant progress has been made in the instant case.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that respondent No.6 ordered an inquiry to be conducted by the Sub-Divisional Magistrate, Jalandhar-I, in view of report of respondent No.7 (Annexure P-4). Curiously, the inquiry has been marked to respondent No.7 himself, who had registered the sale deed under challenge.

6. It is settled law that where a constitutional Court is satisfied that accusation is against a person who by virtue of his office could influence the ongoing investigation and cause prejudice to the complainant or the victim, it can invoke its power to transfer the investigation to a different agency, especially when it becomes necessary to provide credibility and instill confidence in the investigation or where such order may be necessary for doing complete justice and enforcing the fundamental rights. A reference in this regard can be made to ***Rashmi Behl vs. State of Uttar Pradesh and others***,



2015(2) RCR(Criminal) 45, State of Punjab vs. Davinder Pal Singh Bhullar and others, 2012(1) RCR(Criminal) 126, State of Punjab vs. Central Bureau of Investigation and others, 2011(9) SCC 182, State of U.P. and others vs. State of UP, 1994 AIR (Supreme Court) 38 and Kashmeri Devi and Delhi Administration, 1988(2) RCR(Criminal) 44.

7. However diligently and fairly might the officers of Punjab Police at District Jalandhar carry out the investigation, the same is bound to lack credibility since the allegations of connivance have also been levelled against retired officials of the same police force.

8. In view of the facts and circumstances of the case and in the interest of justice, the present petition is disposed of in the following manner:

- (i) The investigation of the FIR(supra) is transferred out of District Jalandhar.
- (ii) The Inspector General of Police, Jalandhar Range, Jalandhar is directed to entrust the case to an IPS Officer, posted outside District Jalandhar, to rule out any apprehension of the petitioners.
- (iii) The concerned investigating agency is directed to conduct the investigation dispassionately and file the final report under Section 173 Cr.P.C. (*now Section 193 BNSS*) within a period of 03 months from the date of receipt of certified copy of this order, strictly in accordance with law.

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- (iv) A compliance report be filed in the Registry of this Court on or before 27.08.2025.
- 9. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

02.05.2025
yakub

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