

(2012) 09 P&H CK 0280

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous M No. 30206 of 2008

Sukhpreet Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Sept. 17, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226
- Criminal Procedure Code, 1973 (CrPC) - Section 155(2), 156(1), 482
- Penal Code, 1860 (IPC) - Section 120B, 420, 465, 467, 468

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: P.S. Bhangu, for the Appellant; P.S. Paul, D.A.G., Punjab for Respondents No. 1 and 2, Mr. C.M. Munjal, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Sabina, J.

Petitioner has preferred this petition u/s 482 of the Code Criminal Procedure, 1973 seeking quashing of the FIR No. 310 dated 14.9.2008 registered under Sections 420, 465, 467, 468, 471 and 120B of the Indian Penal Code ("IPC" for short) at Police Station City Abohar, District Ferozepur (Annexure P1) along with all consequential proceedings arising there from. Learned counsel for the petitioner has submitted that the petitioner was bona fide purchaser for consideration. The entry in the jamabandi qua ownership was in favour of Het Ram 1964-65 onwards with regard to Khasra No. 552(0-5). Petitioner had no way of knowing as to whether an entry in the jamabandi had been manipulated with regard to Khasra No. 552(0-5) by the seller in his favour

2. Learned State counsel as well as the counsel for the respondent, on the other hand, have opposed the petition.

3. After hearing the learned counsel for the parties, I am of the opinion that the instant petition deserves to be allowed.

4. It has been held in State of Haryana vs. Bhajan Lal, 1992 Supp (1) Supreme Court Cases 335, the Apex Court has held as under:

The following categories of cases can be stated by way of illustration wherein the extraordinary power under Article 226 or the inherent powers u/s 482, Cr. P.C. Can be exercised by the High Court either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complainant, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontested allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of Magistrate as contemplated u/s 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too

in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

5. The prosecution story, in brief, is that Het Ram was, in fact, owner of Khasra No. 522 (0-5). Het Ram had got the entry in jamabandi changed in his favour with regard to Khasra No. 552(0-5) although he was owner of khasra 522(0-5). The entry in the jamabandi continued in favour of Het Ram with regard to Khasra No. 552(0-5) for 30 years. Petitioner had purchased land bearing Khasra No. 552 (0-5) from Het Ram vide sale deed dated 08.10.2007.

6. Since the entry qua the Khasra No. 552(0-5) was in favour of Het Ram on the date the sale deed was executed, the petitioner, who was the purchaser of the said land, can be described to be a bona fide purchaser for consideration. The petitioner cannot be attributed any criminal offence as the entry in favour of Het Ram with regard to Khasra No. 552(0-5) was continuing in the revenue record from the year 1964-65 onwards. Thus, a perusal of the FIR reveals that no criminal offence can be said to have been committed by the petitioner-Sukhpreet Singh, who was the bona fide purchaser, for consideration. Hence, the criminal proceedings against the petitioner would be nothing but an abuse of process of law. Accordingly, this petition is allowed. FIR No. 310 dated 14.9.2008 registered under Sections 420, 465, 467, 468, 471 and 120B IPC at Police Station City Abohar, District Ferozepur (Annexure P1) and all subsequent proceedings arising there from are quashed qua the petitioner.