

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

**Crl. Misc. No. M-14322 of 2013
Date of Decision: 30.01.2015.**

Capt. Harminder SinghPetitioner

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Vikram Gupta, Advocate
for the petitioner.

Mr. K.S.Aulakh, AAG, Punjab.

None for respondent No. 2.

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SABINA, J.

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No. 339 dated 13.10.2007, under Section 420, 465, 467, 471, 120-B of the Indian Penal Code, 1860 ('IPC' for short) and Section 3/4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act' for short), registered at Police Station City Kapurthala, District Kapurthala (Annexure P-1) and all the subsequent proceedings arising therefrom.

Learned senior counsel for the petitioner has submitted that petitioner had purchased land measuring 3 *kanals* 6 *marlas* from Pargan Singh vide sale deed dated 7.5.2003 (Annexure P-2). The land was mutated in favour of the petitioner vide Annexure P-3. As per the revenue record, the land in question was not described as *nazool* land. Petitioner had

purchased the land for setting up a petrol pump and after obtaining 'No Objection Certificate' from the Deputy Commissioner, had started running the petrol pump. The FIR in question was lodged against the petitioner and his co-accused by levelling false allegations. The matter was duly inquired by the police and petitioner was found innocent. However, at a later stage, challan was presented against the petitioner and his co-accused Pargan Singh. Pargan Singh had also given his affidavit that he had sold the land to the petitioner. No offence under the Act could be said to have been committed by the petitioner.

Learned State counsel, on the other hand, has opposed the petition.

None has appeared on behalf of respondent No. 2 despite service.

In the case of **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 under Section 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 channelised 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/respondent No.2, 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 under Section 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 uncontroverted 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 under Section 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.”

In the present case, FIR in question was lodged by R.S.Sandhu, Advocate-respondent No. 2. Pargan Singh who was the owner of the land in question, had not lodged any complaint

against the petitioner. Admittedly, petitioner had purchased the land measuring 3 *kanals* 6 *marlas* from Pargan Singh. It is further admitted case that in the column of remarks in the *jamabandi* for the year 1995-96, the land had not been described as *nazool* land. Note regarding the fact that the land was *nazool*, was mentioned on 27.4.2007 i.e. much after the date of sale deed executed by Pargan Singh in favour of the petitioner. The sale deed was executed in favour of the petitioner on 7.5.2003. Thus, the petitioner cannot be attributed the knowledge that he had purchased *nazool* land from vendor Pargan Singh as no such description was given in the revenue record. Annexure P-9 is the affidavit executed by Pargan Singh wherein he has stated that he had no knowledge about the restriction or nature of the land. Since the vendor himself is denying the knowledge qua nature of the land, petitioner cannot be presumed to be in knowledge of the fact that the land in question was *nazool* land.

Thus, in the present case, continuation of criminal proceedings against the petitioner would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. FIR No. 339 dated 13.10.2007, under Section 420, 465, 467, 471, 120-B IPC and Section 3/4 of the Act, registered at Police Station City Kapurthala, District Kapurthala (Annexure P-1) and all the consequential proceedings, arising therefrom, qua the petitioner, are quashed.

**(SABINA)
JUDGE**

January 30, 2015
Gurpreet