

2025:PHHC:094506



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

1. **CRM M-46421 of 2018**
Date of Decision:18.07.2025

Amarjit Kaur		...Petitioner
	Versus	
Raghbir Singh		... Respondent

2. **CRM M-5266 of 2019**

Jasbir Kaur		...Petitioner
	Versus	
Raghbir Singh		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Parambir Singh, Advocate
for the petitioner (in both the petitions).

Mr. G.S. Bal, Senior Advocate with
Mr. Laxman Choudhary, Advocate
for the respondent (in both the cases).

N.S.SHEKHAWAT, J. (Oral)

1. This order shall dispose off two petitions, i.e., CRM M-46421 of 2018 titled as “**Amarjit Kaur Vs. Raghbir Singh**” and CRM M-5266 of 2019 titled as “**Jasbir Kaur Vs. Raghbir Singh**”, whereby, the petitioners have prayed for quashing of criminal complaint No. 66 dated 08.07.2016 titled as “**Raghbir Singh Vs. Prem Singh and others**” (Annexure P-1) and summoning order dated 12.09.2018 (Annexure P-2) passed by the Court of Sub-Divisional Judicial Magistrate, Khadur Sahib, whereby, the

petitioners have been summoned to face trial under Sections 420, 467, 468, 471 and 34 IPC.

2. The complaint in the present case was instituted at the instance of Raghbir Singh, respondent, who claims himself to be the resident of “Sri Guru Amardass Jojavan Nagar Sudhar Sabha, Goindwal Sahib”, which was doing the welfare works at Goindwal Sahib and in surroundings areas. As per him, there was one government street at Goindwal Sahib and which was also used by the villagers to go to other streets and the entire village was using such a street. Prem Singh and Balwinder Singh Kahlwan, co-accused were constructing 19 shops on the street illegally and people were suffering due to the said illegal act. Even though, they tried to stop them but they told them that they had the sale deed of 14 marlas in their favour and they were owners of the same. When he investigated the matter, he came to know about the big fraud in the revenue record, which was committed by accused jointly and now they wanted to construct 19 shops on the street in question. Even, they did not get the demarcation of the above said street in question and wanted to earn illegal profit by constructing 19 shops in question as it was a valuable piece of land. All the accused had already tampered with the sale deed and the land of 02 marlas was increased to 14 marlas and it was an outcome of fraud. Even, the complainant and others had moved various complaints to the higher authorities but no action was taken against

the accused. During the course of preliminary evidence, the respondent/complainant himself appeared as CW1 whereas he also examined four more witnesses and after tendering certain documents, the evidence was closed by order. Ultimately, the matter was considered by the trial Court and vide the impugned summoning order dated 12.09.2018 (Annexure P-2), the Court of Sub-Divisional Judicial Magistrate, Khadur Sahib, summoned four accused including both the petitioners under Sections 420, 467, 468, 471 and 34 IPC.

3. Learned counsel for the petitioners vehemently argued that even from the allegations levelled by the respondent in the present case and the preliminary evidence, no offence was made out against the present petitioners. In fact, the dispute pleaded in the complaint was especially civil in nature and had been given the cloak of a criminal offence, without any evidence to that effect. Even the revenue authorities had duly carried out the correction in their revenue record vide Fard Badar dated 27.02.2015 and had corrected the land entries. Further, a demarcation dated 16.02.2015 was carried out by the revenue authorities and it was clearly mentioned that there was no encroachment by the present petitioners on the said land. He further contends that even, the respondent had concealed the material facts and had simultaneously instituted a complaint against the petitioners and others. In fact, the respondent had filed a civil suit in the year 2015 (Annexure P-3) against the petitioners and others and

the suit was also amended on 03.03.2016. Even, the petitioners alongwith other parties had submitted their replies in the civil suit, which were annexed with annexure P-4 and even the copy of the reply filed by the Gram Panchayat was annexed as annexure P-6. Still further, the petitioners alongwith other co-sharers of the property had filed a suit for permanent injunction dated 28.04.2017 against the respondent and others and were granted *interim* injunction by the trial Court on 28.04.2017 against the respondent and the copy of the said order (Annexure P-6) was on the record. Moreover, it has been wrongly alleged that the petitioners had tampered with the revenue record, whereas much prior to the institution of the complaint, the half share of the property in dispute was purchased by the accused side from Gurdev Singh son of Ujjagar Singh and the entry had already been made in the *jamabandi* for the year 2007-2008 and 2012-2013 as well. Learned counsel referred to the copy of the judgment and decree dated 01.05.2023 passed by the Court of Additional Civil Judge (Senior Division), Khadur Sahib, whereby, the civil suit filed by the respondent and others has been ordered to be dismissed. Whereas, vide judgment dated 13.08.2024 (Annexure P-10) passed by the Court of Indu Bala, Additional Civil Judge (Senior Division) Khadur Sahib, the suit filed by the petitioner was decreed with costs and the defendants which included the respondent were restrained from interfering in the suit property or to dispossess the plaintiffs from the

suit property except in due course of law. Thus, even before the Civil Court, the respondent had lost the legal battle and the FIR is an instrument of misuse of process of law.

4. On the other hand, learned counsel appearing on behalf of the respondent has vehemently opposed the submissions made by the petitioners on the ground that the petitioners had forged and fabricated the revenue record and had made wrong entries in this regard. Even, there was tampering with the record of the panchayat department and the petitions deserve to be dismissed by this Court.

5. In the various judgments passed by the Hon'ble Supreme Court and this Court, it has been held repeatedly while referring to the provisions of Section 482 Cr.P.C. that nothing under the Code of Criminal Procedure shall deem to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. The Hon'ble Supreme Court in the matter of **Ajay Mitra Vs. State of M.P. & others, 2003(3) SCC 11,** has held as follows:-

“Leave granted.

These appeals by special leave are directed against the judgment and order dated January 16, 2002 of High Court of Madhya Pradesh, by which three Petitions filed by the appellants under Section 482 Cr.P.C. were dismissed.

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Thereafter, the appellants filed three Criminal Miscellaneous Petitions under Section 482 Cr.P.C. before the High Court for quashing of the FIR and the proceedings of the case before the learned Magistrate. After hearing the parties, the High Court held that the investigation had not yet commenced in connection with the FIRs which had been registered at the Police Station and, therefore, the Petitions were pre-mature and accordingly all the three Petitions were rejected.

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The High Court has held that the Petitions filed by the appellants for quashing the complaint and the FIRs registered against them are pre-mature. The question which arises is that where the complaint or the FIR does not disclose commission of a cognizable offence, whether the same can be quashed at the initial stage? This question was examined by this Court in State of West Bengal & Ors. V. Swapan Kumar Guha & Ors., AIR 1982 Supreme Court 949 and it was held that the First Information Report which does not allege or disclose that the essential requirements of the penal provision are prima facie satisfied, cannot form the foundation or constitute the starting point of a lawful investigation. It is surely not within the province of the police to investigate into a Report (FIR) which does not disclose the commission of a cognizable offence and the code does not impose upon them the duty of inquiry in such cases. It was further held that an investigation can be quashed

if no cognizable offence is disclosed by the FIR. The same question has been considered in State of Haryana &Ors. V. Ch. Bhajan Lal &Ors. 1991(3) RCR (Criminal) 383 (SC) and after considering all the earlier decisions, the category of cases, in which the Court can exercise its extra-ordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. either to prevent abuse of the process of any Court or to secure the ends of justice, were summarised in para 108 of the Report and sub- paras 1 to 3 thereof are being reproduced hereinbelow :

"1. Where the allegations made in the First Information Report or the complaint, 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 F.I.R. 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."

6. The said judgment by the Three Judges Bench of the Hon'ble Supreme Court had affirmatively held that where an FIR does not disclose the essential requirements of the penal provision or

does not disclose the commission of a cognizable offence, the same can be quashed at the initial stage. Reference has also been made to the judgment of Hon'ble Supreme Court in case ***“State of Haryana and others Vs. Ch. Bhajan Lal & Ors., 1991(3) RCR (Criminal) 383***, in which, it was observed that the High Court can exercise its extraordinary power under Article 226 of the Constitution or the inherent power under Section 482 Cr.P.C. 1973 either to prevent abuse of the process of any Court or to secure the ends of justice.

7. The Hon'ble Supreme Court of India in ***“R Kalyani vs. Janak C. Mehta” reported as 2009 (1) SCC 516*** has held as under:

“Leave granted.

2. Appellant lodged a First Information Report (FIR) against the respondents on or about 4.1.2003 under Sections 409, 420 and 468 read with Section 34 of the Indian Penal Code.

3. First and second respondent approached the High Court for an order for quashing of the said FIR as also the investigation initiated pursuant thereto or in furtherance thereof. The High Court allowed the said proceedings by reason of the impugned order dated 29.4.2004. Mr. K.K. Mani, learned counsel appearing on behalf of the appellant, would, in support of the appeal, contend :

(1) The High Court exercised its inherent jurisdiction under Section 482 of the Code of Criminal Procedure wholly illegally and without jurisdiction insofar as it

entered into the disputed questions of fact in regard to the involvement of the respondents as the contents of the first information report disclose an offence of cheating, criminal breach of trust and forgery.

(2) While admittedly the investigation was not even complete, the High Court could not have relied upon the documents furnished by the defendants either for the purpose of finding out absence of mens rea on the part of the applicants or their involvement in the case.

(3) Respondent Nos.1 and 2 herein being high ranking officers of M/s. Shares and Securities Ltd., a company dealing in shares, were vicariously liable for commission of the offence being in day to day charge of the affairs thereof.

(4) An offence of forgery being a serious one and in view of the fact that the respondent No.2 forwarded a letter purporting to authorise the accused No.3 to transfer shares to the National Stock Exchange, he must be held to have the requisite intention to commit the said offence along with the respondent No.3.

(5) In any view of the matter, the respondent No. 3 being not an applicant before the High Court, the entire criminal prosecution could not have quashed by the High Court.

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In Hamid v. Rashid alias Rasheed & Ors. [(2008) 1 SCC 474], this Court opined :

"6. We are in agreement with the contention advanced on behalf of the complainant appellant. Section 482 Criminal Procedure Code saves the inherent powers of the High Court and its language is quite explicit when it says that nothing in the Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. A procedural Code, however exhaustive, cannot expressly provide for all time to come against all the cases or points that may possibly arise, and in order that justice may not suffer, it is necessary that every court must in proper cases exercise its inherent power for the ends of justice or for the purpose of carrying out the other provisions of the Code. It is well established principle that every Court has inherent power to act ex debito justitiae to do that real and substantial justice for the administration of which alone it exists or to prevent abuse of the process of the Court."

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One of the paramount duties of the Superior Courts is to see that a person who is apparently innocent is not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.

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A vicarious liability can be fastened only by reason of a provision of a statute and not otherwise. For the said purpose, a legal fiction has to be created. Even under a

special statute when the vicarious criminal liability is fastened on a person on the premise that he was in-charge of the affairs of the company and responsible to it, all the ingredients laid down under the statute must be fulfilled. A legal fiction must be confined to the object and purport for which it has been created. In Sham Sunder & Ors. v. State of Haryana [(1989) 4 SCC 630], this Court held :

"9. But we are concerned with a criminal liability under penal provision and not a civil" liability. The penal provision must be strictly construed in the first place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not."

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27. If a person, thus, has to be proceeded with as being vicariously liable for the acts of the company, the company must be made an accused. In any event, it would be a fair thing to do so, as legal fiction is raised both against the Company as well as the person responsible for the acts of the Company.

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30. The appeal is dismissed with the aforementioned observations.

8. Now advertng to the facts of the present case, the respondent has wrongly alleged that the petitioners and other accused

had tried to grab the land of the street and wanted to construct 19 shops on the street illegally. In fact, in a criminal case, the proceedings can be initiated by only aggrieved person or any person, who comes to know about the commission of the offence, however, the concept of *locus standi* cannot be so widened, so as to include any stranger, who had no concern at all with the property. Moreover, it is apparent from the reading of the allegations that the respondent and the petitioners and their family members were politically opposed to each other. Thus, on this ground also, the possibility of false implication of the present petitioners cannot be ruled out. Moreover, with regard to the same property, the respondent had filed a civil suit (Annexure P-3) before the Court of Additional Civil Judge (Senior Division) Khadur Sahib. However, vide the judgment and decree dated 01.05.2023 (Annexure P-9), the Court of Additional Civil Judge (Senior Division), Khadur Sahib has dismissed the said suit filed by the respondent. Even, the most of the issues were decided against the respondent by the Civil Court, whereas, on the other hand, the civil suit instituted by both the petitioners and others has been decreed.

9. Still further, in the present case, it has been alleged by the respondent/complainant that the petitioners were not the actual owners in possession of the property in question, but they had changed the revenue entries illegally and there was tampering in the

revenue record. However, the respondent could not show that any document was forged by either of the petitioners.

10. Even, the Hon'ble Supreme Court has repeatedly held that the civil dispute cannot be converted into a criminal offence. Even, the while dealing with a similar case, the Hon'ble Supreme Court has held in the matter of ***the State of Madhya Pradesh Vs. Shilpa Jain and others***, 2024 AIR Supreme Court 1814 as follows:-

"2.4. In furtherance of the Complaint, the FIR came to be registered by the investigating agencies against 22 (twenty-two) persons including inter alia the Respondents. Aggrieved by the registration of the FIR, application(s) came to be preferred under section 482 CrPC, 1973 before the High Court seeking the quashing of the FIR (the "Quashing Petition"). Vide the Impugned Order, the High Court quashed the FIR and the proceeding(s) emanating thereof. The operative paragraph(s) of the Impugned Order are reproduced as under: "05. Considering the above submissions and the evidence on record in the form of the judgments of the trial Court as well as the appellate Court that the respondent-state has been unable to prove its title. The suit as well as the appeal have been dismissed and in this light filing of criminal proceedings as alleged by the Counsel for the petitioners is nothing but a ploy to subjugate the petitioners. It has ben consistently stated by the Counsel for the petitioners that the petitioners are in possession of the said land for more than 90 years and Counsel has relied on several judgments of the Hon'ble

Apex Court as well as this Court in the matter of Mohammed Ibrahim and others v. State of Bihar and another [(2009) 8 SCC 751], Ramesh Dutt and others v. State Punjab and others [(2009) 15 SCC 429], Rajib Ranjan and others v. R Vijaykumar [(2015) 1 SCC 513], Mr. Stephen v. Gomes and another [2015 (II) MPWN 149], Savitri Pandey and another v. State of UP and others [AIR 2015 SC 2501], AK Sharma (Cdr.) v. State of MP 2015(3) JLJ 213 and Chandran Ratnaswami v. KC Palanisamy and others [2013 (6) SCC 740] to state that the Hon'ble Supreme Court and this Hon'ble Court have repeatedly held and quashed FIR and criminal proceedings relating to a dispute of title of property and other civil disputes and Counsel prayed for quashment of the FIR.

06. Besides Counsel also submitted that there was no allegation against the petitioners regarding their having forged any document or their having manipulated any documents or cheating. Then under the circumstances offences could not be made out against the petitioners. Counsel has vehemently urged that the action of the Tehsildar in lodging the FIR and registration of the offences is a gross misuse of the power and invoking the criminal law and procedure is purely contrary to the principles of natural justice as well as the provisions of the law since civil proceedings established title and the State has lost on both these counts.

07. Hence, I find that a judicial process should not be an instrument of oppression, or, needless harassment. The Apex Court has in several cases warned that Authorities

*should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process; otherwise the process would become a mere instrument in the hands of the private complainant to seek vendetta and short circuit a procedure of law. Especially, in the present case the civil matters are still pending consideration and placing reliance on **Suneet Gupta v. Anil Triloknath Sharma and others 2008 (11) SC 670**. I find that the FIR needs to be quashed primarily on the ground that the dispute is purely civil in nature and the complaint amounts to an abuse the process of law. The impugned FIR stands hereby quashed. The petitions are, therefore, allowed."*

11. In view of the above discussion, this Court is completely convinced that it is a case of a malicious and vengeful process, which has no basis. Thus, both the petitions are allowed and the criminal complaint No. 66 dated 08.07.2016 titled as **“Ragbir Singh Vs. Prem Singh and others”** (Annexure P-1) and summoning order dated 12.09.2018 (Annexure P-2) passed by the Court of Sub-Divisional Judicial Magistrate, Khadur Sahib, are ordered to be quashed qua the petitioners.

12. All pending applications, if any, are disposed off, accordingly.

18.07.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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