
(2002) 10 P&H CK 0050

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 8373-M of 1996

Harbans Sigh and others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 23-10-2002

Acts Referred:

Citation : (2003) 1 AICLR 393 : (2003) 1 RCR(Criminal) 65

Hon'ble Judges : Mehtab S.Gill, J

Advocate : Mr. H.S. Bhullar, Advocate.Mr. Amarjit Singh, Addl. Advocate General, Punjab. Mr. T.P.S. Mann, Advocate., Advocates for appearing Parties

Judgement

Mehtab S. Gill, J.

1. The petitioners have filed this petition under Section 482 of the Code of Criminal Procedure for quashing F.I.R. No. 16 dated March 24, 1996, registered at Police Station, City Batala under Sections 420/465/468/467/471 and 474 of the Indian Penal Code and all other consequential proceedings arising therefrom.
2. The petitioners have averred that the petitioners and some other persons known to them had purchased 787 shares of the New Janta Bus Service Private Limited, Batala during the years 1976 to 1984 from the original share holders. These persons were controlling and running the business of the transport company since then. They were also paying taxes, filing returns and doing all other necessary business for the running of the company. Petitioner No. 1, i.e. Harbans Singh, is the Chairman of the company; petitioner No. 2 i.e., Gurjinder Singh is the Managing Director and petitioner No. 3, i.e., Darshan Singh is the Director of the Company.
3. It has been further averred that some of the shareholders, who were left in minority, started interfering in the management of the company in the year 1989. A civil suit No. 381 of 1989 titled as Darshan Singh and others v. Hardip Singh and others was filed by the present petitioners along with some other persons on October 1, 1989. An application under JUDGMENT 39 Rules 1 and 2

read with Section 151 of the Civil Procedure Code was also filed. Stay was granted in favour of the plaintiffs/petitioners vide order dated April 28, 1993. An appeal was filed by the defendants in that suit before the learned Additional District Judge, Gurdaspur. Vide his order dated October 14, 1994, the appeal was dismissed. Finally, the suit was decreed by the learned trial Court on August 31, 1995, copy of which is annexed with the petition as Annexure P1.

4. Shri Jagdish Sahni lodged a false report with the Senior Superintendent of Police, Batala on the basis of which, a criminal case was registered against the petitioners vide F.I.R. No. 16 dated March 24, 1996 under Sections 420/465/467/468/471 and 474 of the Indian Penal Code. Copy of the F.I.R. is annexed with the petition as Annexure P2.

5. Shri Jagdish Sahni was an M.L.A. of the Ruling Congress Party from Batala Assembly Constituency. He used his influence to foist a false case on the present petitioners. F.I.R. was registered against the petitioners with mala fide intention so that they could surrender their shares in favour of Shri Jagdish Sahni (complainant) or his nominees.

6. It has been further averred that the civil litigation qua the shares, which was pending before the trial Court, had already been decided in favour of the petitioners. Copy of the judgment dated August 31, 1995 passed by the Civil Judge, Batala is annexed with the petition as Annexure P1.

7. The dispute between the parties is of a civil nature and the F.I.R. registered against the petitioners was false and just to pressurise them.

8. The petitioners filed a petition for pre-arrest bail vide Criminal Misc. No. 5985M of 1996, which was granted by this Court on April 10, 1996, copy of which is annexed with the petition as Annexure P3.

9. I have heard the learned counsel for the parties and gone through the F.I.R., which is attached with the petition as Annexure P2.

10. The only allegation against the petitioners, i.e., Darshan Singh, Harbans Singh and Gurinder Singh is that they have forged certain shares transfer forms showing themselves to be bona fide share holders of the company. Apart from this vague allegation, nothing comes out from the F.I.R. that how, when and where were these documents forged and with whose connivance were they forged and how these shares were illegally transferred in their names.

11. It is mentioned in the F.I.R. (Annexure P2) that the civil suit pending before the Civil Court at Batala has not been decided as yet. Further, it is stated in the F.I.R. that the petitioners, who were the plaintiffs in the civil suit, had obtained an ex parte decree illegally and fraudulently. Again nothing has been mentioned as to what is the illegality and what was the fraud committed on the Court, while obtaining the decree in that civil suit. The Civil suit, as mentioned earlier, had already been decided in favour of the present petitioners, who were the plaintiffs before the trial Court and an appeal filed by the defendants in that civil suit

against the order of the Civil Judge, Batala, was also dismissed. Thus, the order of the Civil Judge, Batala, had attained its finality.

The dispute before the Civil Court at Batala was also of a similar nature where the shares had been challenged. It had also been stated by the defendants in the written statement in the civil suit that fraud and forgery have been committed, but they could not prove it.

In view of the above discussion, the petition is allowed. F.I.R. No. 16 dated March 24, 1996 registered at Police Station, City Batala under Sections 420/465/468/467, 471 and 474 of the Indian Penal Code is quashed. Further, all the consequential proceedings qua this F.I.R. are also quashed.