

**HIGH COURT OF PUNJAB AND HARYANA
Bench: Justice Pankaj Jain**

Date of Decision: 18 October 2023

CRM-M-6340-2023 (O&M)

**Guru Nanak Vidya Bhandar
Trust, Daryaganj, New Delhi**Petitioner

Versus

State of Punjab and others ...Respondents

Sections, Acts, Rules, and Articles:

Article 226 of the Constitution of India

Sections 452, 323, 506, 427, 120-B, 148, and 149 of the Indian Penal Code, 1860

Subject: Misuse of Legal Process and Abuse of Law in a Land Mafia Case

Headnotes:

Transfer Petition – Section 482 Cr.P.C. – Petition filed for transferring FIR No. 133, dated 10th March 2022, to Central Bureau of Investigation or to a Special Investigation Team under the supervision of a Senior IPS officer. The case involves allegations of crimes punishable under Sections 452, 323, 506, 427, 120-B, 148, and 149 of the Indian Penal Code, 1860. [Para 1]

Legal Abuse and Forum Shopping – Court notes with concern the shocking abuse of the legal process and terms the conduct as beyond mere 'forum shopping.' Petitioner's Trust allegedly faces illegitimate attempts by accused persons to seize property through forgery and frivolous litigation. [Para 2-3]

Civil Court Observations – The Civil Court at Dera Bassi had vacated an ad-interim injunction earlier granted to the accused. The Court found the accused to have not approached the Court with clean hands and noted that they had concealed material facts. [Para 4-5]

Conduct of Legal Practitioners and Judicial Officers – Accused persons, in connivance with respondent No.5, a practicing lawyer, allegedly manipulated the judicial process. Focus is drawn to the role of a specific judicial officer, respondent No.8, and accusations of forum shifting to exert undue pressure on the petitioner. [Para 6-7]

Unrelated Litigations – Respondent No.5 involved in bringing unrelated cases and summoning witnesses in an attempt to influence the main dispute. Cases like ‘Kavita v. Mamta’ and ‘Prabhdeep Singh v. Dalel Singh ASI and others’ highlighted as examples. [Para 8]

Pressure Tactics – Filing of additional cases against the petitioner in the same court, ostensibly to coerce or exert pressure, so as to prevent testimony against the accused persons. [Para 9]

Abuse of Legal Process – Seriousness of abuse in legal process necessitates detailed investigation by an independent agency – Trust in legal systems must be maintained by thwarting misuse. [Para 15]

Constitutional Obligations – High Courts have the power and obligation to protect fundamental rights under Article 21 of the Constitution of India – Extraordinary powers to be used cautiously and sparingly. [Para 16-17]

Investigating Agency – Observations on the shifting stances of the investigating agency underline the need for an independent inquiry – Central Bureau of Investigation (CBI) directed to conduct the investigation. [Para 18-19]

Timelines and Court Proceedings – Central Bureau of Investigation directed to conclude investigation preferably within six months – Trial Court proceedings paused until the investigation is complete. [Para 20-21]

Impleadment Application – Accused have no locus in matters of transfer of investigation – Application for impleadment dismissed. [Para 23-25]

Miscellaneous Application – Application dismissed as having been rendered infructuous after the main petition was disposed of. [Para 26]

Referred Cases:

- Pratibha Manchanda & Anr. vs. State of Haryana Criminal Appeal No.1793 of 2023 arising out of SLP (Crl.) No.8146 of 2023
- State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others (2010) 3 Supreme Court Cases 571
- Shahid Balwa vs. Union of India (2014) 2 SCC 687

Representing Advocates:

Mr. R.S. Rai, Sr. Advocate with Mr. P.S. Ahluwalia, Advocate, Mr. Jagat Vir Singh Dhindsa, Advocate and Mr. Nitish Pathak, Advocate for the petitioner. Mr. Sumeet Goel, Senior Advocate with Mr. Satyaveer Singh, Advocate, Mr. Tajveer Singh, Advocate and Mr. Ashish Pundir, Advocate for the applicant in CRM-38764-2023 Mr. Tarun Aggarwal, Sr. D.A.G., Punjab. Mr. Anand

Chibber, Senior Advocate with Mr. Ateevraj, Advocate for respondent No.5.
Mr. Nimanyu Gautam, Advocate for respondent No.7.

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. seeking transfer of FIR No.133, dated 10th of March, 2022 registered for the offences punishable under Sections 452, 323, 506, 427, 120-B, 148 and 149 of the Indian Penal Code, 1860 at Police Station Zirakpur, District SAS Nagar, to Central Bureau of Investigation or to a Special Investigation Team under the supervision of a Senior IPS Officer, who can take a holistic view.

2. The facts of the case indeed reveal a shocking tale how the process of law has been abused by unscrupulous elements. The petitioners call it 'Forum shopping' but it seems to be beyond that.
3. While issuing notice of motion this Court noticed facts in detail and passed following order: :

“Present petition has been filed by petitioner-Guru Nanak Vidya Bhandar Trust, Daryaganj, New Delhi through its Manager Harjit Singh seeking transfer of case FIR No.133 dated 10.03.2022 under Sections 452, 323, 506, 427, 120-B, 148 and 149 IPC, registered at Police Station Zirakpur, District SAS Nagar, to the Central Bureau of Investigation or to a special investigation team under the supervision of a senior IPS officer.

The pleaded case of the petitioner in the present petition is that Guru Nanak Vidya Bhandar Trust, Daryaganj, New Delhi, was created way back in the year 1924 and had to its distinction eminent persons as trustees for the purpose of imparting education. The trust which has been in existence for over 100 years purchased various properties from time to time. An imposter trust was created by the accused persons, namely, Rajinder Kumar son of Sona Ram and Sarabjit Singh son of Harnam Singh in the name of Guru Nanak Vidya Bhandar Trust, New Delhi. The dispute in the present case pertains to the property owned by the petitioner-trust measuring 8 acres, situated at Village Nabha, VIP Road, Zirakpur, which currently has a market value of over Rs.100 crores and FIR No.133 dated 10.03.2022 (Annexure P-1) was registered at Police Station Zirakpur, District SAS Nagar for offences under Sections 452, 323, 506, 427, 120-B, 148 and 149 IPC at the instance of the manager of the petitioner-trust against the accused persons, namely, Sanjeev Kumar Gabha; Rajesh Kumar Gabha;

Rajinder Kumar and Sarabjit Singh. It has further been averred that certain documents were forged by these four accused persons in an attempt to gain title over the property and one such document is a certificate which was allegedly issued under the Cooperative Societies Act on 10.10.1980 (Annexure P-9), bearing the stamp of N.C.T., New Delhi. The document being forged and fabricated is borne out of the fact that N.C.T., Delhi was created in the year 1991. Thereafter, the said four persons namely, Sanjeev Kumar Gabha; Rajesh Kumar Gabha; Rajinder Kumar and Sarabjit Singh filed a civil suit before the Civil Court at Dera Bassi along with applications under Order 39 Rules 1 and 2 CPC. Initially, ad-interim injunction was granted by the Court of learned Civil Judge (Jr. Divn.), Dera Bassi, vide order dated 08.03.2022 but later on vide order dated 04.04.2022 the said application was dismissed with the following observations: -

“13. The entire record prima facie shows that plaintiffs have not come to court with clean hands and are thus not entitled to discretionary relief of injunction. The facts put forth by defendant no.1 in written statement apparently provide that plaintiffs have concealed material facts from the court. For instance, a notice Annexure D16 dated 23.02.2022 was issued by the office of ADC, SAS Nagar (Mohali) to plaintiff no.1 as well as one Inderdeep Singh, President of Guru Nanak Vidya Bhandar Trust, New Delhi with respect to a complaint moved by said Inderdeep Singh being President of the trust alleging land grabbing by plaintiffs. Plaintiffs have apparently very cleverly concealed about such fact and not disclosed the same in plaint or in any application on record. Moreover, bare perusal of written statements of defendants no. 2 to 4 provide that they are hand in glove with plaintiffs and want to create concocted admissions to give undue benefit to plaintiffs by way of assisting plaintiffs to procure injunction from court.

x x x x

18. In view of aforesaid detailed discussion and reasons, this court is of considered view that firstly plaintiffs have not approached the court with clean hands and are accordingly not entitled to temporary injunction under Order 39 Rule 1 and 2 CPC. Moreover, as per the numerous documents on file, it is apparent that plaintiff no.2 is not the trust which owns suit property and accordingly, any execution of lease deed by plaintiff no.2 in favour of plaintiff no.1 pertaining to suit property shall not be a proof of transfer of any

right or title or possession regarding suit property. In fact, after the rebuttal of case by defendant no.1 by submitting ample documents on record, it is apparently revealed that plaintiffs have not been in possession of suit property even prior to filing of present case and they have obtained the ad-interim injunction order by portraying the documents in a wrong manner.

Accordingly, there is no question of disobedience of any such ad-interim injunction order dated 08.03.2022 nor any question arises for restoration of possession in favour of plaintiffs under Section 151 CPC. In fact, adinterim injunction order dated 08.03.2022 deserves to be vacated, in view of aforesaid reasons. The cases relied upon by Id. counsel for plaintiffs provide for different facts and are accordingly distinguishable. 19. Consequently, application under Order 39 Rule 1 and 2 CPC, application under Order 39 Rule 2-A CPC and application under Section 151 CPC moved by plaintiffs are dismissed. On the other hand, application under Order 39 Rule 4 CPC moved by defendant no.1 for vacation of ad-interim injunction order dated 08.03.2022 is allowed. Therefore, adinterim injunction order dated 08.03.2022 stands vacated. Nothing in this order shall affect the merits of case.”

It has also been averred that the accused persons in connivance with respondent No.5-Vikas Kumar, Advocate, District Court, Bathinda, have adopted all illegal measures including forum shopping and flouting the process of law, whereby the cases have been filed by respondent No.5 and orders are being passed by respondent No.8-Ms. Navreet Kaur, Civil Judge (Junior Division)/JMJC, Bathinda. The details of such cases are as under: -

“(i) An application titled ‘Kavita v. Mamta’ under Sections 12 and 18 of the Domestic Violence Act, 2005 (Annexure P-17) was pending since 2007. Respondent No.5 moved an application on 10.03.2022 in the said case for summoning the following two witnesses: -

“Clerk of Registrar of Firms and Societies, Punjab, 17 Bays Building, Bridge Market, Sector 17, Chandigarh, 160017 for bringing the record regarding, Gruru Nanak Vidya Bhandar Trust, A/c No.5243 along with registration certificate of the societies dated 17.04.1993 and entire documents attached with the application form and all record related with Guru Nanak Vidya Bhandar Trust. Concerned Bank Manager/concerned clerk, UCO Bank, Branch Connaught Palace, New Delhi for bringing the record regarding bank account No.11668 bearing

name Guru Nanak Vidya Bhandar Trust being the recorded customer, application form along with all attached documents and all vouchers of payments issued by Guru Nanak Vidya Bhandar Trust and entire files related with the account and bank statements from the day of opening the bank account till 9.05.2022 and all the details regarding issuance of demand draft from the day of the opening bank account till 09.05.2022.”

Thereafter, statement of AW1 Neeraj Kumar Singhal was recorded on 16.05.2022, although the case was not listed on that date as the same was fixed for hearing on 26.07.2022 and finally the complaint titled ‘Kavita v. Mamta’ was withdrawn vide order dated 12.12.2022 (Annexure P-22).

*(ii) In a **criminal complaint case titled ‘Prabhdeep Singh v. Dalel Singh ASI and others’, under Sections 365, 323, 324, 341, 120-B, 506, 467, 465, 471 IPC pending since 2018**, respondent No.5 moved an application to summon the Chief Manager of UCO Bank as a witness. The aforesaid application came to be allowed by the Court of respondent No.8-Navreet Kaur, JMIC, vide order dated 30.11.2022 wherein Neeraj Kumar Singhal was examined as CW-6 and testified on the same lines again (Annexure P-23).”*

It is submitted by learned counsel for the petitioner that both these cases are completely unrelated to the dispute at hand. Respondent No.5-Vikas Kumar, who had appeared in the civil suit where strictures were passed by the Civil Court at Dera Bassi, is a practising lawyer at Bathinda who had clandestinely shifted the forum of litigation to Bathinda and that too in one particular Court of respondent No.8-Navreet Kaur, JMIC.

Besides the abovesaid cases, following cases have been filed at Bathinda: -

*(i) **Criminal complaint bearing COMI No.131 of 2022 titled ‘Rajesh Kumar v. Harjit Singh etc.’** against complainant-Harjit Singh in the same Court of respondent No.8-Navreet Kaur, JMIC has been filed through respondent No.5 in order to coerce and exert pressure upon him from testifying against the accused persons.*

*(ii) **One Rajesh Kumar has filed a civil suit against UCO Bank seeking details of the account of the petitionerTrust without even impleading the petitionerTrust as a necessary party for which an application had to be moved under Order 1 Rule 10 CPC. Even this suit has been filed through respondent No.5”***

On the basis of above facts, learned counsel for the petitioner contends that three separate and distinct modes have been adopted by accused persons, namely, Sanjeev Kumar Gabha; Rajesh Kumar Gabha; Rajinder Kumar and Sarabjit Singh in order to usurp and grab the property of the petitioner trust in the following manner: -

“(i) By sending goons and musclemen who were armed with deadly weapons to forcibly take over the possession of the property;

(ii) By forging and fabricating multiple documents so as to create a semblance over the title of the property and (iii) An active involvement of a lawyer in the matter so as to abuse the process of law by indulging in forum shopping and playing fraud upon the Court.” He therefore submits that the investigation of case FIR No.133 dated 10.03.2022 under Sections 452, 323, 506, 427, 120-B, 148 and 149 IPC, registered at Police Station Zirakpur, District SAS Nagar, be transferred to the Central Bureau of Investigation or to a special investigation team under the supervision of a senior IPS Officer.

Notice of motion to respondents No.1 & 3 to 7 only at this stage.

Mr. Adhiraj Singh, AAG, Punjab accepts notice on behalf of respondents No.1, 3 and 4.

Let notice be served upon respondents No.5 to 7, returnable on 19.04.2023.

Respondent No.4-Senior Superintendent of Police, SAS Nagar (Mohali), is directed to examine the matter and submit status report/reply by the next date of hearing.

Respondent No.8-Navreet Kaur, Civil Judge (Junior Division)/JMJC, Bathinda, is directed to submit report to this Court with regard to the aforesaid cases i.e. (i) application titled ‘Kavita v. Mamta’ under Sections 12 and 18 of the Domestic Violence Act, 2005 (Annexure P17); (ii) criminal complaint case titled ‘Prabhdeep Singh v. Dalel Singh ASI and others’, under Sections 365, 323, 324, 341, 120-B, 506, 467, 465, 471 IPC (Annexure P-23) under what circumstances the witness - Chief Manager of UCO Bank-Neeraj Singhal has been called and record of the petitioner-trust has been summoned without there being any connection of the petitioner-trust in the said cases on an application filed through respondent No.5-Vikas Kumar, Advocate, District Court, Bathinda. The said report be submitted through District and Sessions Judge, Bathinda, by the next date of hearing.”

4. The involvement of various stakeholders in the system who were expected to be on the right side of law but were apparently caught on the other is

obvious. Pursuant to the orders by this court reports have been received from respondent No.8 twice. One dated 10th of March, 2023 and second is dated 16th of October, 2023. The Officer can't deny that statement of CW6-the summoned witness (appended along with the second report) was recorded in her presence. She has signed the testimony sheet. Her silence w.r.t. relevance of evidence even while the testimony was being recorded remains amiss even today.

5. This Court does not consider it appropriate to comment further on the same. Registry is directed to place reports received from respondent No.8 along with documents and the paper-book of the instant petition along with orders passed on different dates before the Hon'ble the Administrative Judge of the concerned District for information and necessary action if any.

6. Respondent No.5 the Advocate whose role is also under cloud filed affidavit on 5th of October, 2023. He admitted that record summoned by him using the process of Court had no relevance to the case and tendered unqualified apology which was rejected by this Court observing as under :

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Respondent No.8 to submit explanation as to how the record was summoned despite the fact that the same has no relevance with the lis pending before respondent No.8 as admitted by respondent No.5 in his affidavit.

Status report by way of affidavit of Senior Superintendent of Police, District SAS Nagar (Mohali) has been filed. The same is taken on record.

A copy of the complete paper book with orders be sent to the Bar Council of Punjab and Haryana to consider the same and take appropriate action, if so required under law against respondent No.5.

Respondent No.4 shall have liberty to enquire with respect to the conduct of all the parties to the present lis and submit report before this Court. Adjourned to 18.10.2023.

A copy of this order be served upon respondent No.8 as well for necessary compliance before next date of hearing. ”

7. FIR No.133 dated 10th of March, 2022 has been registered for offences punishable under Sections 452, 323, 506, 427, 120-B, 148 and 149 of the Indian Penal Code, 1860 at Police Station Zirakpur, District SAS Nagar on the complaint made by Harjit Singh, the Manager of the petitioner Trust alleging as under :

“It is requested that I Harjit Singh son of Joginder Singh resident of H.No.183 Ground Floor, PDI City Sector 110, Mohali, P.S. Sohana, District SAS Nagar. Since 2006, I am Manager of Gurunanak Vidhya Bhandar Trust, Daryaganj, New Delhi. This trust is having ownership of land about 32 bighas (8 acres) situated at Nabha Saab to VIP Road, Zirakpur. This land was purchased by trust in the year 1986 and since then the possession of the land is with the trust. On two sides of land, there is boundary wall and gate is also there at VIP Road side. We are looking after this land of trust. We employed two private guards for looking after and security of land since then. For the last about 6 months, we have employed 8 security guards instead of two for the security of the land on day and night duty. They are getting pay from the account of our trust. For their residence, one residential room is constructed in the land inside of boundary wall where CCTV cameras are also installed. 1. Sanjeev Kumar Gatha son of Kala Ram, resident of 8, Red Villa Complex, Zirakpur, Dera Bassi 2. Rajesh Kumar Gabha son of Hans Raj, resident of Ward No.4, Near Camp park DAV College, Malout, Sri Muktsar Sahib, presently resident of Mohali. 3. Rajinder Kumar s/o Sona Ram Singh resident of X3068, Street No.4 Raghuvarpura Gandhi Nagar, New Delhi, 4. Sarabjit Singh son of Harnam Singh r/o X-3068, Street No.4, Raghuvarpura Gandhi Nagar, New Delhi alongwith their companions have prepared or got prepared different papers with intention to grab the land of the trust. Regarding this, enquiry is pending in the different offices because they got registered a trust with the similar name Gurunanak Vidhya Bhandar Trust, X-3068, Street No.4, Raghuvarpura Gandhi Nagar, New Delhi - 110031 with intention to grab land of our trust. Today on 10.3.2022 at about 6.30 a.m. I received phone call from security guard Gurnam Singh and Balwinder Singh who were there at land and while perplexed, he told me on phone that when they opened the gate of boundary wall for shifting the duty, then Rajesh Kumar Gabha s/o Hans Raj, resident of Ward No.4, near Camp Park DAV College, Malout, Sri

Muktsar Sahib, presently resident of Mohali along with 10/12 unknown persons who were armed with deadly weapons, entered the land inside the gate and then they entered in the residential room of security guard, where other security guards were sitting. They all started giving beatings to them with their weapons and they caused them internal injuries. Then they damaged phones of security guard and CCTV cameras. They also threatened our persons to commit their murder. They all with common intention today entered inside the gate and caused the injuries to security guard by entering in the residential room and they caused damage. The motive is this that as per ownership record, we are in possession of land of trust since then but all these persons under a planned conspiracy and with intention to claim their possession over the land, committed this illegal occurrence with the security guard which were employed by the trust. Thus, legal action be taken against them. Some persons out of them are threatening the presently posted security guard, so there is apprehension of life to our security guards, immediately legal against be taken against them. Sd/-

8. Two of the accused namely Rajinder Kumar and Sarabjit Singh preferred CRM-M-14825-2022 seeking pre-arrest bail. Arrest of the petitioners was stayed by this Court on 7th of April, 2022 and they were asked to join investigation.

9. Status report by way of affidavit of Bikramjit Singh Brar, PPS, Deputy Superintendent of Police, Sub Division Zirakpur, District SAS Nagar, Mohali dated 21st December, 2022 was filed in CRM-M-14825-2022. Pre-arrest bail of the aforesaid two accused/ petitioners was opposed.

10. Subsequently, status report dated 18th of August, 2023 was filed by way of affidavit of Dr. Sandeep Kumar Garg, IPS, Senior Superintendent of Police, District SAS Nagar (Mohali) (in CRM-M No.6340 of 2023) in compliance of order dated 8th of February, 2023. The investigating agency took a complete somersault and changed its stand from the earlier status report filed in pre-arrest bail. Respondent No.4 stated as under :

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5. That during inquiry/investigation it has come to light that the accused party had earlier filed Civil Suit No. 212 of 2022 praying for grant of

permanent injunction against the complainant party and a restraint order was passed by the 1d. Civil judge Derabassi in favour accused persons on 08.03.2022 thereby, restraining the complainant party from entering the land in question forcibly /illegally. True copy of order dated 08.03.2022 is being annexed herewith as **Annexure R-4/1** for the kind consideration of this Hon'ble Court.

6. That however, after noticing the fact that the accused persons have not approached the Court with clean hands, the said interim order passed in favour of accused persons was vacated by the Ld. Civil Judge Derabassi on 04.04.2022. True copy of the order dated 04.04.2022 is being annexed herewith as Annexure R-4/2 for the kind consideration of this Hon'ble Court. Similarly, the mutation entry made in the name of accused Sanieev Kumar Gabba by the Tehsildar Zirakpur based on lease deed executed in his favour by Amit Redhu (alleged legal advisor of trust of accused persons), was cancelled by ADC General, SAS Nagar on 22.03.2022.

7. That in the order(s) of Ld. ADC (G), SAS Nagar and Ld. Civil Court, Derabassi there is reference as regards original land documents, however, the complainant has not produced any such document during investigation. Besides, as per Call Detail Record the location of accused persons namely Rajinder Kumar and Sarabit Singh is at Ghaziabad, Uttar Pradesh from 09.03.2022 until the reported time of occurrence i.e. 06:30AM on 10.03.2022.

8. That similarly, the location of subsequently nominated accused Amit Redhu, who is facing the allegations of committing theft of articles such as LED, DVR recorder, inverter along with battery etc. from the place of occurrence for which offence under Section 380 IPC was added in the present matter, is also at Phase-3B2, Mohali at the stated time of occurrence.

9. That apart from above, during investigation no recovery has been made from arrested accused persons namely Rajesh Kumar, Manoj Kumar (nominated subsequently), Sanjeev Kumar.

Further it is not possible to lift the aforesaid articles without use of vehicles from the place of occurrence and during investigation no vehicle has been found involved in the present matter. There is no medical record to prove injuries on the person of complainant party. Statedly, the land is covered by boundary wall from 2 sides, therefore, there was no requirement for the accused persons to await the opening of gate by the security guards of complainant persons, as if required

they could have entered upon the land in question from the unbuilt area around it. Even though an argument amongst accused persons Sanjeev Kumar, Rajesh Kumar Gabba and security guards of complainant party was found to have taken place. However, the allegations levelled against the accused persons are not proved.

10. That essentially the matter relates with dispute over the ownership and possession of land in question amongst the accused persons and complainant party. As per the Ld. Civil Court order dated 08.03.2022, the possession was with accused persons, however, ad-interim stay in their favour was vacated thereafter. Both the parties are claiming the possession of land under dispute. For which Civil proceedings are underway between them and now are pending consideration before the Ld. Civil Judge, Derabassi for 19.09.2023.

11. That in view of the above, recommendation has been made for cancellation of present case/FIR, which was approved by the answering respondent in light of the aforesaid facts and circumstances. True translated copy of report of SP (Hq.) SAS Nagar dated 06.08.2023 is being annexed herewith as Annexure R-4/3 for kind consideration of this Hon'ble Court.

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11. Today fresh status report has been filed by way of affidavit of Dr. Sandeep Kumar Garg, IPS, Senior Superintendent of Police, District SAS Nagar (Mohali)/respondent No.4. The investigating agency again has taken a complete somersault and has now claimed that Challan against accused persons namely Sanjeev Kumar Gaba, Rajesh Gaba and Manoj Kumar stands presented before the Court of Competent Jurisdiction on 16th of October, 2023 and the role of other accused persons namely Amit Redhu, Sarabjit Singh and Rajinder Kumar is still under investigation for which supplementary final report under Section 173(8) Cr.P.C. would be prepared and presented. The stand of the respondent No.4 as culled out in the affidavit reads as under :

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3. That in compliance of the directions passed by this Hon'ble Court, the deponent is continuing with investigation of the present matter with assistance of team comprising of SP (Inv.) SAS Nagar, ASP, Dera Bassi and SHO, Police Station Zirakpur. Challan against accused persons Sanjeev Kumar Gaba, Rajesh Gaba and Manoj Kumar was presented before the Ld. Competent Court on 16.10.2023 and now the matter is pending awaiting their appearance before the Ld. Concerned Court for

06.11.2023.

4. That however, the role of accused persons Amit Redhu, Sarabjit Singh and Rajinder Kumar, is still under investigation. All measures are being taken to complete the investigation at its earliest and upon completion of the same, the supplementary final police report under Section 173 (8) Cr. P.C would be prepared and presented against them as per the facts/circumstances that will come on record during further investigation.

5. That so far as case/FIR No.0303 dated 04.10.2023 under Section 420/465/467/468/471 IPC registered at Police Station Dera Bassi against accused persons Sanjeev Kumar Gaba, Rajesh Kumar Gaba, Rajinder Kumar and Sarabjit Singh is concerned, investigation is being conducted with assistance of the team comprising of SP (Inv.) SAS Nagar, ASP, Dera Bassi and SHO, Police Station Dera Bassi. Letters have been written to authorities concerned and the relevant record is being obtained. Efforts are being made to take investigation to its logical end. The matter is pending investigation.

6. That similarly, the deponent is also examining the matter as regards the manner in which the parties to the lis pendens have acted in the present matter and in furtherance thereof, has associated and recorded statement of respondent No.5. From the examination conducted so far, the matter seems suspicious and may require detailed inquiry.

7. That the directions passed by this Hon'ble Court are complied with in its true letter and spirit. However, the deponent undertakes to comply with any further order or direction which this Hon'ble Court may pass in the facts and circumstances of the present case.”

12. In the considered opinion of this Court the shifting stand of investigating agency doesn't augur well that too when the matter is pending before this Court. It can't be taken lightly more so keeping in view the mode and the manner in which the process of law has been abused. This shows that neither the offence is routine nor the precipitator can be taken lightly.

13. At the heart of the controversy lies a huge chunk of land owned by a Charitable Trust situated at the periphery of city of Chandigarh which has now become a prized possession keeping in view the exponential rise in prices of lands in the area.
14. The Apex Court in the case of '**Pratibha Manchanda & Anr. vs. State of Haryana Criminal Appeal No.1793 of 2023 arising out of SLP (Cri.) No.8146 of 2023**, decided on 7th of July, 2023 echoed the same sentiment observing that :
- “25. Land scams in India have been a persistent issue, involving fraudulent practices and illegal activities related to land acquisition, ownership, and transactions. Scammers often create fake land titles, forge sale deeds, or manipulate land records to show false ownership or an encumbrance-free status. Organized criminal networks often plan and execute these intricate scams, exploiting vulnerable individuals and communities, and resorting to intimidation or threats to force them to vacate their properties. These land scams not only result in financial losses for individuals and investors but also disrupt development projects, erode public trust, and hinder socio-economic progress.
26. While we do not wish to comment further on this issue, we believe it is necessary to foil any trace of organised crime perpetrated by land mafia, through an unimpaired and unobstructed investigation.”
15. The present case which started has the one of the same specie has attained alarming turn. The abuse of process of law calls for a detailed investigation in the present case so that the trust of the litigants in the system doesn't get eroded. The obtrusion that impinges upon the system needs to be nipped in the bud and the vigil needs to be on the high against any pollutant. Since an attempt has been made to misuse the process of law and to make the legal system a party to the misadventure, it doesn't merely remain an offence of simple forgery. The system can't afford self inflicted scars and thus a thorough and unimpaired investigation from an independent agency is required.

16. Constitution Bench in '**State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others**' (2010) 3 **Supreme Court Cases 571** while answering the question 'whether High Court in exercise of its jurisdiction under Article 226 of the Constitution of India can direct the Central Bureau of Investigation established under The Delhi Special Police Establishment Act, 1946 to investigate a cognizable offence, which is alleged have taken place within the territorial jurisdiction of a State without the consent of the State Government?', provided necessary guiding light while observing that :

“Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under [Article 21](#) of the Constitution in particular, zealously and vigilantly.”

17. The aforesaid observations came with necessary caution :

“This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.”

18. Gazing the facts of the present case from the aforesaid guiding light and the caution, this Court finds that the seriousness of the allegations levelled in the present case, the manner in which legal process has been employed to serve the illegal designs of the troublemakers and the conduct of the investigating agency in shifting its stand every then and now, this is one of those cases which calls for a thorough and detailed investigation from an independent agency. In the words of Supreme Court no offender can be left with the feeling that he can get away with any crime which tarnishes the image not only of the

investigating agency but judicial system as well (**Shahid Balwa vs. Union of India (2014) 2 SCC 687**).

19. In view of above, respondent No.2 (Central Bureau of Investigation) is directed to conduct investigation in the present case and FIR No.133 dated 10th of March, 2022 *ibid*.

20. This Court is quite sanguine that Central Bureau of Investigation shall conclude the investigation expeditiously preferably within **six months**. Till the investigation is concluded, Trial Court is directed not to proceed further.

21. The present petition is disposed off accordingly.

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23. This is an application seeking impleadment filed by the accused.

24. As per settled law accused have no *locus* so far as the transfer of investigation/inquiry is concerned.

25. Resultantly, the application is dismissed.

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26. **(After Lunch)** At this stage the instant misc. application has been received. However the main petition already stands disposed off. Thus the application is dismissed as having been rendered infructuous.

27. A copy of this order be kept on the file of other connected case.

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