

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

**Crl. Misc. No. M-27767 of 2010
Date of Decision: 24.8.2015.**

Kulwant Singh and othersPetitioners

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Manish Parbhaker, Advocate
for the petitioners.

Mr. J.S.Sekhon, AAG, Punjab.

Mr. Vaibhav Narang, Advocate
for respondent No. 2.

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SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 98 dated 16.2.2008, under Section 420 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Civil Lines, Amritsar and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioners has submitted that the petitioners have been falsely involved in this case. In fact, during investigation, the investigating agency had come to the conclusion that the petitioners were innocent. However, at a later stage, challan was presented against the petitioners. Complainant had filed suit for recovery against the petitioners No. 1, 3 and Sukhkanwal Singh. However, the said suit was

dismissed by the Trial Court vide judgment/decreed dated 15.2.2015.

Learned State counsel as well as counsel for respondent No. 2, on the other hand, have opposed the petition. Learned counsel for respondent No. 2 has submitted that the complainant has challenged the decision of the Civil Court by filing an appeal and the same was still pending.

Prosecution story, in brief, is that petitioner No. 1 was the relative of the complainant who used to visit him and said that he could send him (complainant) to Germany and could arrange for a permanent job for him. Kulwant Singh further stated that he along with his son Sukhkanwal Singh, Satnam Singh and Jasbir Kaur had sent many persons to foreign countries and had arranged jobs for them. In September 2006, Kulwant Singh, Sukhkanwal Singh, Satnam Singh and Jasbir Kaur came to the house of the complainant and said that they could send him (complainant) to Germany in case he paid them ₹ 11,00,000/-. Complainant was made to understand that he was required to pay half of the amount in advance and the remaining amount was required to be paid by him after he reached Germany. The accused took ₹ 25,000/- from the complainant in the presence of Punjab Singh and Harbhajan Singh. Complainant sold the tractor belonged to his father and further borrowed money from his commission agent and deposited ₹ 5,25,000/- in the account of the accused. In December 2006, complainant went to Mumbai and was kept there by accused for 10-15 days. Complainant was told that his visa had expired and they would get the same extended. In

February 2007, complainant again went to Mumbai at the instance of the accused. However, the complainant was neither sent to Germany nor his money was returned to him.

After completion of investigation and necessary formalities, challan has been presented against the petitioners-accused and charges have been framed against them by the Trial Court on 9.9.2014. Two prosecution witness have also been examined during trial. Petitioners are specifically named in the FIR and serious allegations have been levelled against them. Although, the civil suit filed by the complainant has been dismissed by the Civil Court but the same is under challenge by way of an appeal.

In the facts and circumstances of the present case, it would not be just and expedient to quash the criminal proceedings at the very threshold.

Dismissed.

However, petitioners would be at liberty to take up all the pleas available to them before the Trial Court during trial.

**(SABINA)
JUDGE**

August 24, 2015
Gurpreet