

**CRM-M-28230 of 2016 &
CRM-M-30420 of 2016**

[1]

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

Sr. No. 205

CRM No.M-28230 of 2016
Date of decision: September 19, 2016

Raminder Kaur

.... Petitioner

Versus

State of Punjab

.... Respondent

2.

CRM No.M-30420 of 2016

Inderbir Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.S. Grewal, Advocate,
for the petitioner(s) in both petitions.

Mr. Dinesh Trehan, Advocate,
for the complainant.

Mr. Rajpreet Singh Sindu, AAG, Punjab.

JASPAL SINGH, J.

This judgment shall dispose of two Criminal Miscellaneous
Petitions bearing No.CRM No.M-28230 of 2016 and CRM No.M-30420 of
2016, as they involved similar facts and circumstances & have arisen out of
the same FIR in both the petitions.

**CRM-M-28230 of 2016 &
CRM-M-30420 of 2016**

[2]

2. The petitioners have preferred the instant petitions under Section 438 Cr.P.C. for grant of pre-arrest bail, apprehending their arrest, in case, bearing FIR No.53, dated June 27, 2016, under Sections 420, 120-B IPC, registered at Police Station Division No.1, District Ludhiana.

3. An FIR was lodged, on the basis of statement of Inder Singh s/o Khan Singh r/o near Railway Station, G.T. Road, Ludhiana to the effect that the petitioners had entered into an agreement for sale of their house bearing No.400/3 situated at Parkash Nagar, Jawaddi, Ludhiana in favour of Jasbir Kaur (daughter-in-law of the complainant) for the sale consideration of ₹50 lacs. The petitioners received an amount of ₹15 lacs as earnest money at the time of agreement and the date for execution & registration of the sale deed was fixed to be February 25, 2015. In the agreement, it was a condition that the petitioners would clear the loan taken from the bank and would also be bound to hand over the vacant possession. But, the petitioners neither cleared the loan nor handed over the vacant possession. As a result of which, daughter-in-law of the complainant cancelled the agreement. The petitioners promised to return the amount of ₹25 lacs i.e. ₹15 lacs as earnest money received by them and ₹10 lacs on account of damages. Accordingly, they issued a cheque No.135025 dated March 25, 2015 in favour of the complainant on behalf of their firm M/s Tulsi Constructions. The complainant came to know that the cheque was not a valid one and it stood dishonoured on presentation as the account was lying closed. Thus, the complainant alleged that the petitioners have cheated him as well as Jasbir Kaur, his daughter-in-law.

**CRM-M-28230 of 2016 &
CRM-M-30420 of 2016**

[3]

4. At the outset of the arguments, learned counsel for the petitioners has submitted that the alleged agreement of sale was not executed in favour of the complainant, therefore, he has no locus standi to get the case registered. So far as the cheque issued in favour of the complainant is concerned, a complaint under Section 138 of Negotiable Instruments Act, 1881 is already pending. Otherwise also, the dispute between the parties is purely of civil nature.

5. Learned counsel for the petitioners has further contended that petitioners are ready to join the investigation and shall abide by all the terms and conditions imposed upon them in case they are released on pre-arrest bail.

6. Per contra, learned State counsel assisted by learned counsel for the complainant has opposed the instant petition on the ground that allegations against the petitioners are grave and serious in nature. Lacs of rupees have been embezzled by the petitioners by playing fraud and cheating. Recovery of the amount is required to be effected from them. Petitioners were very well in knowledge that the property was already under mortgage with the bank at the time of agreement. After agreement also, loan was not cleared by them. Thus, their custodial interrogation is necessary and they do not deserve the concession of pre-arrest bail.

7. This court has given a deep thought to the aforesaid rival submissions made by learned counsel for the parties and gone through the record available on file.

8. Though, the FIR has been lodged on the basis of statement of

**CRM-M-28230 of 2016 &
CRM-M-30420 of 2016**

[4]

complainant i.e. father-in-law of the victim-Jasbir Kaur in whose favour the alleged agreement of sale was executed by the petitioners, statement of Jasbir Kaur was recorded by the police during investigation, in which, she corroborated the version of the complainant. The petitioners received ₹15 lacs as earnest money from Jasbir Kaur under the alleged agreement, but did not honour the same. Moreover, the property in question was under mortgage with the bank. Even the loan was not cleared by the petitioners as per the terms and conditions of the agreement. Petitioners, in the agreement to sell, undertook to clear the loan of the property and hand over its vacant possession to Jasbir Kaur, but they did not honour the commitment. Thereafter, they issued a cheque of ₹25 lacs, but it was dishonoured on its presentation with the remark “account closed”. In this view of the matter, this court is of the considered view that custodial interrogation of the petitioners is necessary to un-earth all the ramifications involved in this case as well as for effecting the recovery of money.

9. Accordingly, this court does not find any ground to exercise its jurisdiction under Section 438 Cr.P.C. Both the petitions are dismissed.

September 19, 2016
Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No