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

Date of decision:11.04.2016

CRM-M 36138/2015

Chander Kant Gupta
.............Petitioner

v.

State of Punjab and another
.............Respondent

(2)**CRM-M 41319/2015**

Neelesh Kumar Saha
.............Petitioner

v.

State of Punjab and another
.............Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Navjeet Singh,Advocate for the petitioner

Mr.Kirat Singh Sidhu,DAG Punjab
with ASI Sukhdeep Singh

Mr.Deepak Aggarwal,Advocate for the complainant

Jaswant Singh,J.(Oral)

This common order shall dispose of aforesaid two petitions under Section 482 Cr.PC seeking quashing of FIR No.99 dated 19.9.2014 under Sections 406,420,467,468,471,120-B IPC, PS Division No.8, Kailash Chowk,Ludhiana and subsequent proceedings arising therefrom.

CRM-M 36138/2015 has been filed by accused petitioner-Chander Kant Gupta, Senior Manager,UCO Bank, MID Corporate Branch,Ludhiana whereas CRM-M 41319/2015 has been filed by accused-petitioner Neelesh Kumar Saha, Chief Manager UCO Bank,Parliament Street,New Delhi-I.

The admitted facts,which emerge, are that the property in question i.e. No.B-XX-1122(New)measuring 95.50 square yards(front upper ground floor)situated in multi storeyed building Shamsher Plaza,Ghumar Mandi Road,Ludhiana was owned by co-accused Rakesh Bhanot and he mortgaged the said property to ICICI Bank in the year 2007 for raising a loan of Rs.70 lacs. Admittedly, the said loan against the said property has not been repaid and it is stated that the liability stands swelled to Rs.2 crores. During the currency of said mortgage with ICICI Bank, the said mortgaged shop was sold vide sale deed dated 13.12.2012 by said Rakesh Bhanot to his wife/co-accused Kiran Bhanot.

On the strength of said sale,another loan amount of Rs.70 lacs was raised by co-accused Kiran Bhanot from UCO Bank, where petitioners in both the aforesaid petitions were working on different Managerial posts. Thereafter, an agreement to sell dated January/April 2014 was executed by Kiran Bhanot with complainant-Anil Bedi for total sale consideration of Rs.2.25 crores. An earnest money of Rs.50

lacs was received. Rakesh Bhanot is one of the witnesses to the contents and execution of the said agreement to sell. In the said agreement to sell, it has been mentioned that the property is mortgaged with UCO Bank,Ludhiana. There is absolutely no reference to the prior charge of ICICI Bank to the said property. The crucial lines are *"besides this, this property is not mortgaged or sold to any other party and there is no loan from any bank against this property."*

It is not in dispute that the loan/charge qua ICICI Bank still exists qua the said property and a sum of rupees more than two crores is outstanding qua the same. It is in the aforesaid background,when neither the earnest money was returned nor the sale deed was executed, the proposed vendee-Anil Bedi(complainant) lodged the aforesaid FIR with the allegations that petitioners- officials of the UCO Bank i.e. Chander Kant Gupta and Neelesh Kumar Saha alongwith co-accused Rakesh Bhanot and his co-accused wife Kiran Bhanot in connivance with each other intentionally cheated him.

The role attributed to the petitiones and another bank official i.e. Surinder Sharma, Senior Manager,UCO Bank is that inspite of clear legal advice on the file to the effect that before sanctioning of loan of Rs.70 lacs in favour of Kiran Bhanot, the previous sale deed dated 12.11.2007 in favour of Rakesh Bhanot qua the shop executed by previous owner,which concededly was lying deposited with the ICICI Bank, be summoned and examined, they proceeded to sanction the loan on the basis of collusive sale deed dated 13.12.2012 executed by accused Rakesh Bhanot in favour of his wife-Kiran Bhanot.

Upon notice, separate replies have been filed by Assistant Commissioner of Police(West)Ludhiana and respondent no.2-Anil Bedi,complainant. In both the replies the facts noticed above have been stated highlighting the role of the petitioners in the commission of offence.

At the time of hearing,learned counsel for the petitioners has not been able to refute the aforesaid factual position and the only submission was that petitioners acted in discharge of their legal/official duties.

After hearing the learned counsel for the petitioners, I do not find any ground to quash the FIR in question as prima facie a serious fraud has been committed by private persons,as detailed above, in connivance with petitioners-bank officials and the role of the petitioners can only be ascertained during trial.

Dismissed.

A copy of this order be placed on the file of connected case bearing CRM-M 41319/2015.

11.04.2016 **(Jaswant Singh)**
joshi **Judge**