

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-15508 of 2016

.....

Date of decision:9.1.2017

Balbir Ram

...Petitioner

v.

State of Punjab

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Malkeet Singh, Advocate for the petitioner.

Mr. V.P.S. Sidhu, Assistant Advocate General, Punjab
for the respondent-State.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of the order framing charge dated 18.2.2015 along with charge-sheet (Annexure-P.2) for offence under Section 420 IPC in FIR No.59 dated 28.5.2014 registered for the offences under Sections 406 and 420 IPC at Police Station Mahilpur, District Hoshiarpur and the order dated 17.7.2015 (Annexure-P.6) passed by learned Additional Sessions Judge, Hoshiarpur dismissing the revision petition preferred by the petitioner challenging the order of framing charge. It has further been prayed that the proceedings before the learned trial Court be stayed during the pendency of the instant petition.

Notice of motion was issued in this case.

Mr. V.P.S. Sidhu, learned Assistant Advocate General, Punjab put in appearance on behalf of the State and contested this petition.

I have heard learned counsel for the petitioner as well as learned Assistant Advocate General, Punjab and have gone through the record.

From the record, I find that earlier an FIR was registered in which the present petitioner was also challaned and charge-sheeted along with one Pritam Chand vide charge-sheet dated 20.9.2001. Copy of the charge-sheet has been placed on record, which is Annexure-P.3. As per this charge-sheet, the allegations against the present petitioner were that he along with his father in furtherance of their common intention with each other cheated Karnail Singh by dishonestly inducing him and obtained ₹70,000/- from Karnail Singh and executed one agreement to sell in his favour and the accused denied to sell as per the agreement and then executed another agreement to sell on 16.12.1998 by Balbir Ram with Manmohan Singh of the same land and hence committed an offence under Section 420 IPC read with Section 34 IPC. Now this case has been got registered by Manmohan Singh on the basis of same agreement to sell dated 16.12.1998 against Balbir Ram.

It has been argued by the learned counsel for the petitioner that in the earlier case Manmohan Singh was named as prosecution witness and in that case the present petitioner Balbir Ram had been acquitted. It has been argued by the learned counsel for the petitioner that the earlier FIR

was bearing No.147 dated 8.12.1999. The list of witnesses of that case has been placed on record as Annexure-P.4 showing present complainant Manmohan Singh as a prosecution witness regarding agreement to sell. Now this case FIR No.59 dated 28.5.2014 was got registered by Manmohan Singh for the offences under Sections 406 and 420 IPC, at the same time, at Police Station Mahilpur, District Hoshiarpur. A perusal of the FIR shows that Manmohan Singh is alleging that ₹3 Lakhs were taken by Balbir Ram for sending him to England and as he failed to send the complainant to foreign country and on demand he executed the agreement to sell for ₹3,50,000/- in respect of his land vide agreement dated 16.12.1998 and sale deed was to be executed on 31.1.1999. Now the case of the complainant is that he has not executed the sale deed on the basis of that agreement to sell dated 16.12.1998.

A perusal of the FIR itself shows that no offence is made out. It is a case of civil nature and there is nothing to explain as to why complainant-Manmohan Singh remained silent and FIR was got registered after a gap of 14 years on 28.5.2014. It is also admitted at the time of arguments that no civil suit for specific performance etc. had been filed during the above said period and limitation for filing such suit has already expired.

Therefore, in view of the above facts, I find that there is nothing in the FIR that the intention of the accused was from the very beginning to cheat the complainant etc. Therefore, as the dispute between the parties is of civil nature, hence no offence *prima facie* under Section 420

IPC is made out.

Consequently, finding merit in the present petition, the same is allowed. The order dated 18.2.2015 framing of charge passed by Judicial Magistrate Ist Class, Garhshankar and the order dated 17.7.2015 (Annexure-P.6) passed by learned Additional Sessions Judge, Hoshiarpur, are not as per law and are illegal and are set aside.

January 9, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No