

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

CRM-M-33146-2018 (O&M)

Date of Decision:-3.8.2018

Stalianjit Singh

... Petitioner

Versus

Namrata

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Adarsh Jain, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

By way of filing this petition, the petitioner seeks quashing of complaint bearing No.10271 dated 25.9.2015 (Annexure P-1) and also summoning order dated 1.5.2018 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Panchkula, whereby the petitioner has been summoned so as to face trial for offences punishable under Sections 420, 467, 468, 471, 465, 120-B and 506 of Indian Penal Code, 1860.

It has *inter alia* been contended that while the allegations in the complaint are mainly to the effect that complainant's membership from the housing society had been struck off without any notice to the complainant/respondent, whereas in fact the record clearly shows that the complainant had signed on the agenda, which was circulated at the time of holding a meeting for cancellation of membership. It has further been submitted that the membership of the complainant/respondent had been struck off on account of non-deposit of the earnest amount of ₹ 45,000/-, and the said fact was duly noticed by the Appellate Authority while deciding statutory appeal under Haryana Cooperative Societies Act, 1984.

It has been submitted that it was after the complainant lost up to the forum of Additional Chief Secretary that she resorted to the criminal proceedings. It has further been submitted that in fact it is a case which at best could constitute civil liability and no criminal liability can be said to be made out.

Having heard the learned counsel for the petitioner, the petition is disposed of with liberty to the petitioner to raise all the points raised herein before the trial Court at appropriate stage. The learned trial Court shall pass a speaking order while taking into consideration all the points including the points raised before this Court.

The presence of the petitioner shall, however, remain exempted subject to the following conditions:-

- (i) he will be represented by a counsel;
- (ii) he will not delay/stall the proceedings of the trial Court;
- (iii) he will not dispute his identity;
- (iv) he will have no objection if the prosecution evidence is recorded in his absence but in presence of his counsel;
- (v) he will appear before the trial Court as and when required by the trial Court and shall abide by any other condition which the trial Court may impose;

The petition stands disposed of with aforesaid directions.

3.8.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No