

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM M-49257 of 2018

Date of Decision: December 10, 2018

Amarjit Sharma

.....Petitioner

Vs.

State of Punjab and anr.

.....Respondents

CORAM: **HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

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Present:- Mr.Nakul Sharma, Advocate for the petitioner.

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MAHABIR SINGH SINDHU, J. (ORAL)

CRM 39455 of 2018

Application for exemption from filing certified copies of annexures P-1 and P-2 is allowed as prayed for.

CRM 43578 of 2018

This is an application for exemption from filing true typed copies of annexures P-13 and P-14.

For the reasons stated in the application, the same is allowed. Copy of the charge-sheet annexure P-13 dated 05.11.2018 and order Annexure P-14 of the even date are ordered to be taken on record.

Registry is directed to tag the same at the appropriate place.

CRM M-49257 of 2018

Through instant petition under Section 482 Cr.P.C., the petitioner seeks the quashing of FIR No. 89 dated September 27, 2012 (Annexure P-1) under Sections 419, 420, 465, 467, 468, 471, 120-B IPC, Police Station Amargarh, District Sangrur, registered at

the instance of respondent No.2 and further seeks the quashing of order dated 01.10.2018 (annexure P-2) whereby the application for discharge moved by the present petitioner has been dismissed by the Judicial Magistrate Ist Class, Malerkotla.

It is contended by learned counsel for the petitioner that there is no material available on the record at all to prosecute the petitioner in the present case. Further contends that matter has been investigated and the petitioner was found innocent by the police and thus the criminal proceedings as well as the impugned order are unsustainable in law. In support of his contentions, learned counsel has cited two judgments, one by Single Bench of this Court titled **Lakhbir Singh and others Vs. State of Punjab and another**, 2014 (2) AICLR 329 and another of Allahabad High Court titled **Phoolchand Gupta and another Vs. State of UP and another**, 2014 (4) ADJ 5.

Heard learned counsel for the petitioner and perused the paper book.

Complainant Jagtar Singh- respondent No.2 wanted to purchase land measuring 45 bigha 6 biswas situated in Village Raipur, Tehsil Malerkotla, District Sangrur for sale consideration of Rs.35.50 lacs per acre and one Malkiat Singh claiming himself to be a property dealer arranged the meeting with one Rachpal Singh to struck the deal where they met with one Pritam Singh @ Ghora and he impersonated himself as Sukhdev Singh son of Sewa Singh. Further allegations are that complainant paid Rs.50,000/- as earnest money

to said Sukhdev Singh at the house of Rachpal Singh and thereafter the remaining amount was paid and agreement to sell was executed regarding the land in question. Later on, it transpired that vendor Sukhdev Singh whose original name is Pritam Singh @ Ghora was the result of impersonation and copy of his voter card, ration card and original electricity bill were fabricated and a thus fraud was committed with the complainant by the petitioner, Santokh Singh and Pargat Singh while hatching a conspiracy. During investigation it was found that an amount of Rs.30 lacs has come to the share of the petitioner. Even before the learned trial Court, complainant while appearing as PW1, in his testimony dated 06.01.2018 (P-9), clearly deposed that Vaid Amarjit (petitioner) got Rs.30 lacs and on the basis thereof, an application under Section 319 Cr.P.C. was moved before the learned trial Court and consequently, the petitioner was ordered to be summoned as additional accused along with Rachpal Singh and Sukhdev Singh vide order dated 21.05.2018 (P-11). Paper book further reveals that after taking into consideration the entire material available on the record, the learned trial Court has framed the charges in the matter vide order dated 04.04.2015 and charge - sheeted the petitioner under Sections 419, 420, 465, 467, 468, 471, 120-B IPC and the trial is going on.

This is an admitted position that neither the summoning order dated 21.05.2018; nor the order of charge sheeting the petitioner are subject matter of challenge in the present petition. Since, prima facie the learned trial Court has found that petitioner is

liable to be prosecuted for commission of offences, under Sections 419, 420, 465, 467, 468, 471, 120-B IPC, therefore, in view of the above factual position, this Court will refrain from entertaining the present petition under Section 482 Cr.P.C. for quashing of the FIR and directing discharge of the petitioner as that will amount to conduct a mini trial. Even otherwise, present is not a case where it can be opined that no offence at all is made out or that the continuation of the criminal proceedings against the petitioner would result into failure of justice or same is misuse or abuse of the process of the Court in any manner.

The judgments cited by learned counsel for the petitioner are not helpful to the case for the simple reason that the **Lakhbir Singh's** case (supra) was for quashing of summoning order under Section 319 Cr.P.C. as in the present case order passed under Section 319 Cr.P.C. is not even the subject matter of challenge. Therefore, the petitioner cannot take any help from the said judgment. So far as the judgment in **Phoolchand Gupta's** case (supra) is concerned that is also not applicable for the reason that in that case the parties had already approached the civil Court at earlier point of time and initially the civil suit was dismissed but later on the appeal was accepted and in that factual background allegations were levelled that property in dispute was sold unauthorizedly without any right, title or interest and that led to the registration of an FIR and in that background the petition under Section 482 Cr.P.C. was allowed while observing as under:-

“14. In the present case, sale-deed was executed transferring a property claiming ownership thereof. If any deception has been played upon purchaser of the property then the vendee of the property can bring criminal action against the vendor. But a stranger or other persons claiming ownership of the property cannot bring criminal action against the purchase of the property.”

In the present case the situation is entirely different as neither any civil suit is pending nor decided between the parties rather the petitioner is alleged to have prima facie committed the offence under Sections 419, 420, 465, 467, 468, 471, 120-B IPC and he is the beneficiary by receiving an amount of Rs.30 lacs without any justification from the complainant.

In view of the above, no ground is made out for quashing of the order dated 01.10.2018 (annexure P-2). Hence, the petition is dismissed. However, the observation made above will not effect the merits of the case.

December 10, 2018
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.