

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-12260-2019 (O&M)
Date of Decision:-18.3.2019

Hansveer Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jitender Chaudhary, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. By way of filing this petition, the petitioner assails order dated 20.9.2018 (Annexure P-3) passed by learned Additional Sessions Judge, Faridabad, whereby a revision petition filed by him challenging order dated 5.7.2018 passed by learned Judicial Magistrate 1st Class, Faridabad framing charges against the petitioner for offence under Sections 420, 406, 506 and 180 of Indian Penal Code, 1860, has been dismissed.
2. The FIR was lodged at the instance of Rajbir Singh against Hansveer, Keshav, Satyender and Bhisam, wherein it is alleged that Hansveer, who is an Advocate in District Court, is into committee (chit fund) and property dealing alongwith his friend Jagbir Singh, who is also an Advocate. Accused Satyender is stated to be a contractor, who helped the co-accused and they divide the profits amongst themselves. It is alleged that the accused, by

holding out promises of hefty profits, made the complainant invest money in their committee as they had assured that they would return the same before the marriage of complainant's daughter namely Ekta and Kopal. Believing the aforesaid representation held out by the accused, the complainant, who had retired from the Police Department, invested all his savings including GPF amount etc. to the tune of ₹27,08,700/- with a hope that he would get back the same alongwith interest at the time of marriage of his daughters. It is alleged that Hansveer had executed a writing to the effect that he would return back an amount to the tune of ₹33,56,822/-. However, when the complainant demanded back the said amount in January 2012, the accused did not return back any amount. Although several Panchayats had also been convened but to no avail. Rather the accused held out threats to eliminate the complainant.

3. After conclusion of investigation, a challan was filed and charges were framed against the accused vide order dated 5.7.2018 passed by learned Judicial Magistrate 1st Class, Faridabad . The accused challenged the said order dated 5.7.2018 by way of filing a revision petition in the Court of Additional Sessions Judge, Faridabad, which was dismissed vide impugned order dated 20.9.2018 (Annexure P-3), which has been challenged by way of filing the present petition.
4. The learned counsel for the petitioner has submitted that the learned Revisional Court, vide impugned order, has dismissed the revision petition without applying its mind and was swayed mainly by the fact that a quashing petition earlier filed by the petitioner seeking quashing of the FIR had been dismissed. The learned counsel has further submitted that, in any case, it is a

case of simple loan transaction, which at best would attract civil liability and that since the complainant has already filed a civil suit seeking recovery, the present criminal proceedings are an abuse of process of law. The learned counsel, in order to hammer forth his aforesaid submissions, places reliance upon a judgment dated 3.1.2019 passed by Hon'ble the Supreme Court in Criminal Appeal No.9 of 2019 titled as Satishchandra Ratanlal Shah Versus State of Gujarat and another.

5. The learned counsel for the petitioner has also submitted that since the civil suit had been filed beyond limitation, the present criminal proceedings could also not have been initiated and no cognizance could have been taken in the present case.
6. I have considered the aforesaid submissions.
7. A perusal of the impugned order dated 20.9.2018 shows that the trial Court has passed a detailed order noticing all the relevant facts. Although the trial Court in para No.11 has also noticed the factum of dismissal of CRM-M-27059-2018 by this Court, but certainly it is not on this sole ground that the revision petition has been dismissed. The learned Court of Additional Sessions Judge has noticed the material facts regarding the accused having held out a promise of returning the principal amount alongwith hefty interest and that the accused had, however, not honoured the promise and upon being asked by the complainant to return the amount, the accused had held out threats to kill the complainant. As such, the contention raised by learned counsel for the petitioner in this regard does not carry any weight and is hereby repelled.

8. As far as, the contention of the petitioner to the effect that it is a case of civil liability and that the criminal proceedings could not have been initiated, it is well settled that the mere fact that an aggrieved person choses to seek redressal from the Civil Court, would not preclude him from initiating criminal proceedings, which can certainly proceed simultaneously alongwith the civil proceedings.
9. As far as the judgment relied upon by the learned counsel for the petitioner i.e. Satishchandra Ratanlal Shah's case (supra) is concerned, in the cited case, the accused was running a money lending company under the name and style of 'M/s Dharshan Fiscal Pvt. Ltd.' and the complainant had been advanced a loan of ₹27 lacs. However, in the present case, there is nothing on record to show that the accused was having any money lending licence or was running any firm. Rather a perusal of the receipts Annexure P-5 (Colly) clearly indicates that promises of interest almost to the tune of 30% had been held out, which would show that the same was in the nature of an allurement to the complainant to invest his hard earned money. In any case, the accused neither being a money lender, nor having returned either the principal amount or interest and having held out false promises of hefty returns, clearly makes out a *prima-facie* case of cheating, so as to attract the criminal liability. As such, the aforesaid cited judgment being distinct on facts is of no avail and would not be attracted to the present case.
10. The contention of the learned counsel for the petitioner to the effect that the matter is barred by limitation also would not hold good, inasmuch as, a perusal of some of the receipts, which have been annexed with the petition, would indicate that the accused had held out promise to return the principal amount on various dates in the year 2010-2011. One such receipt shows that

the amount was promised to be returned on 25.11.2011. In these circumstances, the question as regards the limitation or any bar of cognizance, being a mixed question fact as well as law can well be raised by the petitioner before the trial Court, in view of all the facts, which are brought on record.

11. Having gone through the impugned order, this Court does not find any ground to interfere with the same. There is no merit in the petition and the same is hereby dismissed.
12. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case. The trial Court shall proceed with the matter without being influence with any observations made above.

18.3.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether reasoned/speaking

Yes / No

Whether reportable

Yes / No