IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-42387 of 2016 (O&M)
Date of Decision: February 26, 2019

Sulochana Malik

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Inder Pal Singh, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.Sumit Batra, Advocate
for respondent No.2.

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INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.247 dated 04.08.2016 under Sections 420 and 120-B IPC registered at Police Station Zirakpur, District SAS Nagar and all subsequent proceedings arising out of the FIR.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that FIR in the present case has been registered on the complaint made by Branch Manager, Indian Bank, Sector-

12, Panchkula against Ashish Malik, Atul Kumar, Bharti Upadhyay and Rohit. It is stated in the complaint that during his posting as Branch Manager, he had given two housing loans. One housing loan was given to Ashish Malik on 11.02.2016 for ₹30 lakhs for purchasing house No.316, Krishna Enclave, Dhakoli from Bharti Upadhyay and amount was disbursed to Bharti Upadhyay and Atul Kumar in their joint saving bank account. Second housing loan of ₹15 lakhs was given to Rohit Kumar on 12.01.2016 for purchasing house No.966, Guru Nanak Enclave, Dhakoli and the amount was disbursed to Ashish Malik in his saving bank account. Ashish Malik admitted the receipt of the amount in his affidavit. It is further in the complaint that Ashish Malik and Rohit Kumar have not deposited the registered sale deeds with the bank despite repeated requests and personal visits. Both of them are old customers and promised to produce the sale deeds and believing their statements, loan was sanctioned. It is also in the complaint that acts of accused show that they have cheated and played fraud with the bank to the tune of ₹49 lakhs and it is prayed in the complaint that action be taken against them.

The perusal of the FIR itself shows that no overt act has been mentioned in the FIR against the present petitioner Sulochana Malik. The petitioner is wife of Ashish Malik, one of the accused. The petitioner has not taken any loan from the bank nor approached the complainant, at any stage, as per the FIR. The petitioner has neither purchased the house nor sold any house. She is not to deliver the copies of sale deeds to the Bank Manager. Sulochana Malik has not taken any loan, therefore, she also cannot be held as defaulter. The mere fact that Ashish Malik has joint account with his wife Sulochana Malik, it cannot be held that Sulochana

Malik has committed any offence.

In view of the above discussion, I find that registration of the FIR against the present petitioner is nothing but abuse of process of law and amounts to miscarriage of justice.

Therefore, finding merit in the present petition, the same is allowed. FIR No.247 dated 04.08.2016 under Sections 420 and 120-B IPC registered at Police Station Zirakpur, District SAS Nagar, along with all subsequent proceedings arising therefrom, are hereby quashed, qua the petitioner only.

February 26, 2019 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**