

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

**CRM-M-53736 of 2019
Date of Decision: 16.12.2019**

Corporation Bank

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: None for the petitioner.

HARNARESH SINGH GILL, J. (Oral)

Case has been called thrice but there is no representation on behalf of the petitioner.

Prayer in the petition filed under Section 482 Cr.P.C. is for quashing of FIR No.466 dated 01.12.2018 registered under Sections 420, 467, 468 of the Indian Penal Code vide order dated 16.10.2018.

As per the contents of the present case, the petitioner is a Body Corporate constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980.

Suresh Kumar being proprietor of M/s. Arvind Flour Mills had taken loan from the petitioner-Bank. As there was default in repayment of the loan, the loan account was declared as Non Performing Assests (NPA) as per the guidelines of the Reserve Bank of India on 02.05.2017. Accordingly, the petitioner-Bank initiated action against the borrower as per the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (for short 'SARFAESI') Act, 2002. During said proceedings, Rajesh Kumar, respondent No.2, who is the real brother of Suresh Kumar (borrower) filed the civil suit for possession by

way of partition and permanent injunction including the mortgaged property. During the pendency of the present suit, petitioner-Bank filed an application under Order 7 Rule 11 of Civil Procedure Code on the ground that the jurisdiction of the civil court is barred. The said application was dismissed by the court because the description of the suit property furnished by the borrower-Suresh Kumar did not match with the suit property mortgaged with the petitioner-Bank.

Vide order dated 16.10.2018 passed by learned trial court, the police authorities were asked to register an FIR against Suresh Kumar, but FIR was registered against the petitioner-Bank.

It is stated in the petition that the police has wrongly registered the FIR against the petitioner Bank, as the petitioner Bank is the mortgagee of the property. It is further stated that the order passed by the trial court has been wrongly interpreted by the police authorities.

In the instant case, the petitioner seeks reliance on the provisions of the SARFAESI Act. The petitioner, if so advised, may raise all the pleas before the trial court and/or the investigating authorities.

I do not find any ground to interfere in the present case.

Hence, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

16.12.2019
m. sharma

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