

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

CRM-M-38590-2021 (O&M)

Date of Decision:- 10.11.2021

Ajaypal Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Anupam Bhardwaj, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

CRM-34831-2021

In view of the reasons mentioned in the application, the same is allowed and complainant-Pritam Singh is allowed to be impleaded as respondent No.2.

The amended memo of parties annexed with the application is taken on record.

CRM-M-38590-2021 (O&M)

1. By way of filing this petition, the petitioner seeks quashing of FIR No.293, dated 25.12.2018, Police Station Gate Hakima, District Police Commissionerate Amritsar, under Sections 447, 120-B IPC.

2. A perusal of the FIR in question shows that the same has been lodged at the instance of Pritam Singh wherein the complainant Pritam Singh has made a request for taking action against the following three persons:

- “1. Harbhajan Kaur widow of Raghbir Singh resident of Holy City, Amritsar.
2. Amardeep Singh son of Avtar Singh resident of Sahibzada Fateh Singh Nagar Gate Hakima Amritsar.
3. Dalbir Singh Kamboj son of Harpal Singh resident of Village Bharariwal Fathapur, Amritsar.”

3. The complainant has alleged that Dalbir Singh Kamboj had approached him for sale of a plot situated at Khasra No.16/26 Min Khata Khatoni No.60/339 as per jamabandi for the year 2009-10 and all the aforesaid accused assured him that the property in question is free from all encumbrances and there is no dispute whatsoever and upon the said assurance the complainant paid a sum of Rs.5,94,000/- to the aforesaid persons as full and final consideration and accordingly upon receipt of said amount Amardeep Singh and Harbhajan Kaur executed a receipt and also a General Power of Attorney in his favour. Dalbir Singh Kamboj is also alleged to have taken a commission in respect of the said deal. The complainant alleges that subsequently he came to know that in fact there was a dispute regarding the property in question between Amardeep Singh and Harbhajan Kaur on one side against Amardeep Kaur (sister of the petitioner) who had filed a civil suit against Amardeep Singh and others. It is alleged that the accused had misrepresented regarding

the status of the property and had thus deprived him of a huge amount and although he had approached them a number of times to resolve the matter, but to no avail.

4. Learned counsel for the petitioner has submitted that even if all the allegations as levelled in the FIR are taken to be correct, still no offence under Section 447 IPC can be said to be made out and that offence, if any, can be said to have been committed by the accused Harbhajan Kaur, Amardeep Singh and Dalbir Singh Kamboj, who had allegedly sold a property by way of misrepresentation to the effect that the same is free from any encumbrances/dispute wherein civil litigation was stated to be pending in respect of the same. Learned counsel has further submitted that the petitioner in fact has been targeted in the said FIR as he happens to be attorney as his sister Amardeep Kaur and in the said capacity, had filed a suit against the complainant as well as the accused in the instant FIR.
5. I have heard the learned counsel for the petitioner.
6. Though, from the submissions made before this Court, this Court would tend to observe that the allegations prima-facie do not constitute an offence under Section 447 of IPC, but since the matter is stated to be pending before the trial Court for framing of charges, this Court deems appropriate to relegate the petitioner to the trial Court to raise all the pleas which have been raised herein before the trial Court at the stage of consideration of framing of charges. The trial Court is directed to consider the same and to pass a speaking order while considering the framing of charges. Since, the matter is

stated to be fixed before the trial Court on 2.12.2021, the trial Court shall endeavour to hear arguments for consideration of framing of charges, if conveniently possible on the said date or on any short date thereafter as may be fixed.

7. The petition stands disposed of accordingly.

10.11.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No