

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

CRM-M-15595-2021 (O&M)

Date of decision: 27.01.2022

Saroj Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Mahipal S. Yadav, Advocate for the petitioner.

Ms. Bhavna Gupta, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Challenge in the present petition is to the order dated 15.01.2021 passed by the learned Additional Sessions Judge, Sangrur, dismissing the revision petition filed by the petitioner against the order dated 14.09.2018 passed by the Judicial Magistrate 1st Class, Malerkotla, framing charges against the petitioner under Sections 420, 406 IPC.

Learned counsel for the petitioner contends that while filing an application for discharge, it was specifically pleaded by the petitioner that the dispute being civil in nature, no offence, whatsoever was made out against the petitioner. However, the learned trial Court, while dismissing the application for discharge, had proceeded to frame charges under Sections 420 and 406 IPC. Even in revision filed against the said order, the learned Additional Sessions Judge, Sangrur, has also failed to appreciate the said factual aspect of the matter.

It is further submitted that though the petitioner had specifically raised his challenge in the revision petition regarding the dismissal of the discharge application, by the trial Court wrongly and illegally, yet the learned Additional Sessions Judge, Sangrur, has failed to return any finding in that regard.

On the other hand, learned State Counsel submits that the revision petition was rightly dismissed as it is settled law that where the accused had an intention of cheating right from beginning, he cannot be wriggle out of the guilt by pleading that the offence is civil in nature.

I have heard learned counsel for the parties.

A perusal of the order dated 15.01.2021 passed by the Additional Sessions Judge, Sangrur would show that though the revision petition was dismissed, yet it was observed that Section 420 and 406 IPC being ante-thesis, charge for either offence, shall only be maintainable and accordingly, the trial Court has been directed to reframe the charge. This, thus, concludes that the present challenge by the petitioner is not sustainable.

In view of the said fact, the present petition is disposed of with liberty to the petitioner to raise all the points, including the application for discharge, if any, before the trial Court, at the time of re-framing of the charge(s). It is, however, made clear that the trial Court shall proceed with the re-framing of the charges, in accordance with law, uninfluenced by the observations made hereinabove.

(HARNARESH SINGH GILL)
JUDGE

27.01.2022

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No