

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[Date of Decision: August 02, 2023]

1. CRM-M-35919-2018 (O&M)

Baldev Singh Pannu ...Petitioner

Versus

State of Punjab and others ...Respondents

2. CRM-M-24952-2018 (O&M)

Ravinder Singh Rubby and another ...Petitioners

Versus

State of Punjab and others ...Respondents

3. CRM-M-12779-2022 (O&M)

Harminder Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. P.S. Sullar, Advocate for the petitioner
in CRM-M-35919-2018.

Mr. J.S. Grewal, Advocate for the petitioners
in CRM-M-24952-2018.

Mr. Harish Goyal, Advocate for the petitioner
in CRM-M-12779-2022 (O&M).

Mr. Randeep Singh Khaira, DAG, Punjab.

Mr. Arjun Shukla, Advocate for respondent No.2.

DEEPAK GUPTA, J.

This order shall dispose for three petitions titled above, as all

of them have arisen out of the same proceedings. Facts are being noticed

from CRM-M-35919-2018, titled as *“Baldev Singh Pannu v. State of Punjab and others”*.

2. As it emerges on perusal of the paper book, M/s Rangi Land Developer and Promoters Pvt. Ltd. (respondent No.2) filed criminal complaint (Annexure P-1) in the Court of learned Judicial Magistrate 1st Class, Fatehgarh Sahib to prosecute four accused, namely, Baldev Singh Pannu (*petitioner in CRM-M-35919-2018*); Ravinder Singh @ Rubby & Harjinder Singh (*petitioners in CRM-M-24952-2018*); and Harminder Singh (*petitioner in CRM-M-12779-2022*) for having committing offences punishable under Sections 406, 419, 420, 467, 468, 471 and 120-B IPC. It was alleged that complainant-company was a land promoter and had purchased 56 kanals 19 marlas of land in village Shamsheer Nagar, Tehsil and District Fatehgarh Sahib for residential and commercial purposes and had obtained necessary licence from the competent authority. The complainant-company started working as Rajdhani Enclave and Rajdhani Green. Accused Baldev Singh Pannu was earlier one of the Directors of the company and vide a Resolution dated 05.06.2006 had been authorized to issue title deeds of the plots in Rajdhani Enclave and to sell the plots after receiving the sale consideration. The said resolution authorized him only qua the residential plots. It was the duty of accused Baldev Singh Pannu to deposit the amount, received on selling the plots, in the account of the company since the land was the property of the complainant-company.

3. It was alleged that accused Baldev Singh Pannu by conniving with his near relative i.e., accused No.2 Harminder Singh executed a fake agreement to sell dated 09.02.2010 in favour of said Harminder Singh, in

respect of 2 kanals 10 marlas of land, consisting of 20 showrooms of the dimensions 16 x 24 feet, which are commercial property. Accused Nos.3 and 4 Ravinder Singh @ Rubby and Harjinder Singh attested the agreement. The amount of ₹85,00,000/- received as the amount of sale consideration as mentioned in the agreement was not deposited in the account of the company nor any information was given to the company. It was alleged that agreement is fake, as will be evident from the fact that stamp paper for executing the agreement had been purchased on 30.03.2010, though the agreement has been shown to have been prepared in the back date on 09.02.2010. The company came to know about this fake agreement, when accused No.2 Harminder Singh came to the office of the complainant-company and handed over an affidavit. So much so, said accused No.2 Harminder Singh in connivance with accused No.1 Baldev Singh Pannu filed a civil suit seeking decree for specific performance. Complaint was made to the police for taking action and it is only after passing the orders by this High Court that police registered FIR No.146, dated 07.09.2013, under Section 420 IPC at Police Station Fatehgarh Sahib only against accused No.1 Baldev Singh Pannu. It is alleged that though offences under the other provisions of law are also made out, as a fake agreement had been prepared, which was a valuable security, but the police challaned only accused No.1 Baldev Singh Pannu and that too under Section 420 IPC only and let accused Nos.2, 3 and 4 go scot-free. Prayer was accordingly made to summon and prosecute the accused.

4. After taking preliminary evidence, learned Judicial Magistrate 1st Class, Fatehgarh Sahib, vide order dated 18.01.2018

(wrongly mentioned as 30.10.2017 under signature of presiding officer)

ordered summoning of accused Nos.1, 3 and 4 only to face trial under Sections 420, 467, 468 and 471 of IPC. However, the complaint against accused No.2 Harminder Singh was dismissed. The said order was challenged by the complainant before the Court of Sessions qua accused No.2 Harminder Singh by filing a revision. Vide order dated 02.03.2021 *(Annexure P-4 in CRM-M-12779-2022)*, learned Addl. Sessions Judge directed the Trial Court to pass fresh order regarding summoning of accused No.2 Harminder Singh also after observing that persons, who had signed the agreement dated 09.02.2010, whose stamp papers were purchased on 30.03.2010, were jointly liable for the same and as the agreement in itself is forged and fabricated, so it could not be believed that accused Harminder Singh had paid ₹85,00,000/- to Baldev Singh Pannu. It was observed that Harminder Singh being also the signatory to the agreement, was also liable. After passing of this order by learned Addl. Sessions Judge, accused No.2 Harmidner Singh has been summoned vide order dated 01.11.2021 *(Annexure P-2 in CRM-M-12779-2022)* to face trial for the same offences i.e., under Sections 420, 467, 468 and 471 of IPC along with other accused already facing trial.

5. By way of the present petitions (CRM-M-35919-2018 and CRM-M-24952-2018), petitioners Baldev Singh Pannu, Ravinder Singh @ Rubby and Harjinder Singh have sought quashing of the complaint in question as well as the summoning order dated 30.10.2017, besides the subsequent proceedings; whereas petitioner Harminder Singh by way of CRM-M-12779-2018 (O&M) has prayed for quashing the complaint and the summoning order dated 01.11.2021.

6. It is contended by learned counsel on behalf of petitioner Baldev Singh Pannu that on the same set of allegations, petitioner is already facing trial in case FIR No.146 dated 07.09.2013, under Section 420 IPC lodged by respondent Jarnail Singh Rangi (one of the Directors of the complainant-company) and therefore, the petitioner cannot be summoned by the Court for the same offence in the criminal complaint. It is further contended that learned Magistrate committed error by ordering the summoning of the petitioner by ignoring the fact that dispute is civil in nature and that a civil suit filed by accused Harminder Singh is already pending against petitioner Baldev Singh Pannu. It is further submitted that Civil Court has already allowed amendment of the plaint, so as to rectify the date of agreement as 09.10.2010 (Annexure P-8), the date on which the stamp papers were purchased, as there was no malafide intention to write the wrong date on the agreement.

7. On behalf of petitioners Ravinder Singh @ Rubby and Harjinder Singh, attesting witnesses to the agreement to sell, it is submitted that they are mere witnesses to the agreement and so, no criminal action is made out against them. It is Harminder Singh, who paid the earnest money of ₹85,00,000/- to the company through Baldev Singh Pannu and in the investigation, no role of them (petitioners Ravinder Singh @ Rubby and Harjinder Singh) was found and so, their summoning is bad in law.

8. On behalf of petitioner Harminder Singh, it is contended that he being the bonafide purchaser of the land measuring 2 kanals 10 marlas by way of the agreement to sell in question, is in fact the victim of the crime, as he had paid amount of ₹85,00,000/- to Baldev Singh Pannu and

then had to file a suit for specific performance. He has nothing to do with the crime, as there is internal dispute between the complainant-company and Baldev Singh Pannu. The Trial Court had initially rightly not summoned him and that impugned order dated 23.11.2021 has been passed only on the basis of directions issued by learned Addl. Sessions Judge. Still further, it is argued that no offence of forgery is made out, as identity of the executant or the vendee is not in dispute.

9. With all the aforesaid submissions, all the petitioners have prayed for quashing of complaint as well as summoning orders.

10. Learned State counsel as well as learned counsel for the complainant, refuted the aforesaid contentions and defended the summoning order by submitting that as the stamp paper was purchased on 30.03.2010, so the agreement could not have been executed on 09.02.2010 and as such, *prima facie* it is a fake and forged agreement, having been prepared to cheat the company and so, all the signatories to the agreement i.e. Baldev Singh Pannu, vendee- Harminder Singh, as well as the two attesting witnesses Ravinder Singh @ Rubby and Harjinder Singh, are liable to prepare for this false document and all of them have been rightly summoned.

11. Learned counsel for the respondent-complainant has also pointed out that accused had later on admitted to have executed the agreement on 30.03.2010, as accused Harminder Singh sought amendment of the plaint in the civil suit. Learned counsel has drawn attention towards the fact that though in the vernacular copy of the agreement to sell, as placed on paper book, execution of date of agreement is clearly mentioned to be as 09.02.2010, but the petitioners

have intentionally not shown the said date in the translated copy of the agreement and tried to mislead this Court. Prayer is made for dismissal of all the petitions.

12. I have considered submissions of both the sides and have also perused the record carefully.

13. Section 210 of Cr.P.C. provides about the procedure to be followed, when there is a complaint case and the police investigation in respect of the same offence. The provision reads as under: -

“210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject- matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.”

14. Admittedly, in this case on the basis of earlier complaint made on behalf of the complainant-company, FIR No.146 dated 07.09.2013, under Section 420 IPC was registered at Police Station

Fatehgarh Sahib, in which after investigation, only accused Baldev Singh Pannu was challaned and that too only under Section 420 IPC. On the other hand, in the complaint filed by the company, not only accused Baldev Singh Pannu, but the other three accused Ravinder Singh @ Rubby, Harjinder Singh and Harminder Singh have also been summoned, for facing trial, not only for the offence under Section 420 IPC, but also under Sections 467, 468 and 471 IPC.

15. In the above circumstances, Section 210 Cr.P.C. reproduced above is clearly applicable to the case and petitioner Baldev Singh Pannu cannot seek quashing of the complaint simply on the ground that on the similar allegations, he is already facing trial in the police challan. Of course, the Trial Court is required to follow the procedure as provided under Section 210 Cr.P.C. As far as accused Ravinder Singh @ Rubby, Harminder Singh and Harjinder Singh are concerned, they are not facing trial in the police challan. All of them are the signatories to the agreement being the vendee and the attesting witnesses. As per the *prima facie* evidence on record, the agreement is purported to have been executed on 09.02.2010, although the stamp paper for the same had been purchased on 30.03.2010 and thus, *prima facie* a fake agreement had been prepared in the back date to cheat the complainant company.

16. In the aforesaid facts and circumstances, there is no reason to quash the complaint or the summoning orders. The Hon'ble Supreme Court in *“Suryalakshmi Cotton Mills Limited v. Rajvir Industries Limited and others, (2008) 13 SCC 678* has held as under:-

“17. The parameters of jurisdiction of the High Court in exercising its jurisdiction under Section 482 of the Code of Criminal Procedure is now well settled. Although it is of the wide

amplitude, a great deal of caution is also required in its exercise. What is required is application of the well-known legal principles involved in the matter.”

22. Ordinarily, a defence of an accused although appears to be plausible should not be taken into consideration for exercise of the said jurisdiction. Yet again, the High Court at that stage would not ordinarily enter into a disputed question of fact. It, however, does not mean that documents of unimpeachable character should not be taken into consideration at any cost for the purpose of finding out as to whether continuance of the criminal proceedings would amount to an abuse of process of court or that the complaint petition is filed for causing mere harassment to the accused. While we are not oblivious of the fact that although a large number of disputes should ordinarily be determined only by the civil courts, but criminal cases are filed only for achieving the ultimate goal, namely, to force the accused to pay the amount due to the complainant immediately. The courts on the one hand should not encourage such a practice; but, on the other, cannot also travel beyond its jurisdiction to interfere with the proceeding which is otherwise genuine. The courts cannot also lose sight of the fact that in certain matters, both civil proceedings and criminal proceedings would be maintainable.”

17. In another case in **Rallis India Limited v. Poduru Vidya Bhushan and others ((2011) 13 SCC 88)**, Hon’ble Supreme Court expressed its views on this aspect as under:-

"12. At the threshold, the High Court should not have interfered with the cognizance of the complaints having been taken by the trial court. The High Court could not have discharged the respondents of the said liability at the threshold. Unless the parties are given opportunity to lead evidence, it is not possible to come to a definite conclusion as to what was the date when the earlier partnership was dissolved and since what date the respondents ceased to be the partners of the firm.”

18. In the light of the aforesaid discussion and taking into account the factual as well as legal position, this Court finds no merits in any of the three petitions. All the aforesaid petitions are dismissed.

A photocopy of this order be placed on the connected case files.

August 02, 2023	(DEEPAK GUPTA)
sarita	JUDGE
Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No