

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

**CRM-M-27549-2016 (O&M)**

**Date of Decision: February 01, 2023**

**Dilbagh Singh and another**

**...Petitioners**

**Versus**

**State of Punjab and another**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Present:-** Mr. Vivek Salathia, Advocate for the petitioners.

Mr. Parneet Singh Pandher, AAG, Punjab.

Ms. Avin Kaur Sandhu, Advocate  
for complainant-respondent No.2.

**DEEPAK GUPTA, J.(Oral)**

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash FIR No.22 dated 07.03.2015, registered at Police Station Ajnala, District Amritsar, under Sections 420/120-B of IPC and all the subsequent proceedings arising therefrom.

2. Petitioner No.2, namely Emneet Singh was owner of 5 kanal 2 Marla of land situated in village Kotla Doom, Tehsil Ajnala, District Amritsar. He sold the said land to respondent No.2 Harbans Singh (complainant of FIR) vide a registered sale deed dated 10.01.2003. Petitioner No.1 Dilbagh Singh, father of petitioner No.2 was one of attesting witnesses to the said sale deed. Later on, petitioner No.2 filed a civil suit challenging the sale deed on the ground that he was minor at the time of execution of the sale deed and so, sale deed was void. Said suit was decreed on 06.08.2012 and sale deed in question was set aside. Appeal preferred by respondent No.2 Harbans Singh was dismissed by Additional District Judge, Amritsar on 14.08.2015, though he directed refund of the sale consideration along with interest. Petitioner No.2 as

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well as respondent No.2 filed separate regular second appeals before this Court. RSA No.449 of 2016 (O&M) filed by respondent No.2 Harbans Singh; as well as RSA No.4670 of 2016 (O&M) filed by petitioner No.2 with regard to the refund, were dismissed by this Court on 25.04.2018, affirming the judgment of First Appellate Court.

3. In the meantime, respondent No.2 lodged FIR No.22 dated 07.03.2015, at Police Station Ajnala, District Amritsar, under Sections 420/120-B IPC, alleging therein that after purchasing the land measuring 5 kanal 2 Marla vide sale deed dated 10.01.2003 from petitioner No.2 Emneet Singh, he was in cultivating possession thereof. Said sale deed was witnessed by father of the vendor. However, despite sale, the two accused (petitioners herein) were restraining him from cultivation and were extending threats to him. During investigation, the two petitioners were found to have cheated the complainant – respondent N: 2 by hatching a conspiracy.

4. Quashing of the above said FIR and all the consequent proceedings is sought by the petitioners on the ground that civil litigation filed by respondent No.2 has already come to an end, whereby suit filed by him (respondent No.2) has been dismissed and those findings have been upheld up to this Court. It is also contended by learned counsel for the petitioners that sale deed in question has been executed way back on 10.01.2003, whereas FIR has been lodged on 07.03.2015 and so, Court is now debarred from taking cognizance of the offence, as it is barred by limitation. Besides, there is long delay in lodging the FIR and that dispute involved in the matter is of civil nature only and so, criminal

proceedings cannot be continued.

5. Refuting the aforesaid contention, learned State counsel along with learned counsel for respondent No.2-complainant of the FIR contended that offence under Section 420 IPC being punishable up to 7 years imprisonment, so no limitation is specified for the said offence. It is only after the findings of the Civil Court that it was established that petitioner No.2 was minor at the time of executing of sale deed. The said factum of minority was never disclosed to respondent No.2-complainant despite the fact that vendor's father i.e. petitioner No.1 was the witness to the sale deed. It is further alleged that delay in itself cannot be a reason to quash the FIR and that facts of the case clearly make out criminal offence of cheating and so, FIR cannot be quashed.

6. Having considered submissions of both the sides, I find no merit in this petition.

7. Before considering the contentions raised by the petitioners, it is necessary to keep in mind the legal principles laid down for quashing criminal proceedings

8. In **Municipal Corporation of Delhi v. R.K. Rohtagi**, [1983] SCR 1 884 at 890, Hon'ble Supreme Court held as under:-

*"It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its powers*

under [Section 482](#) of the present Code."

9. In [Municipal Corporation of Delhi v. P.D. Jhunjunwala](#),[1983] 1 SCR 895 at 897 it was further made clear by Hon'ble Supreme Court :

*" . . . As to what would be the evidence against the respondents is not a matter to be considered at this stage and would have to be proved at the trial. We have already held that for purpose of quashing the proceedings only the allegations set forth in the complaint have to be seen and nothing further."*

10. Further, in ***"State of Haryana and others vs Ch. Bhajan Lal"***, reported as 1992 AIR 604, Hon'ble Supreme Court has laid down various principles as to when an FIR can be quashed. These are as under:-

*"8.1. In the exercise of the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide- ĩ7 myriad kinds of cases wherein such power should be exercised:*

*(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

*(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;*

*(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case*

*against the accused;*

*(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code;*

*(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*

*(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;*

*(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

11. In present case, one of the contentions raised by Ld. Counsel for petitioners to quash the FIR & subsequent proceeding is that taking cognizance is barred by limitation. Section 468 Cr.P.C. reads as under:-

**“468. Bar to taking cognizance after lapse of the period of limitation.**—(1) *Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.*

*(2) The period of limitation shall be—*

*(a) six months, if the offence is punishable with fine only;*

*(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;*

*(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.*

*(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be*

*determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.”*

12. Thus, there is no limitation prescribed for an offence punishable with more than 3 years imprisonment. Section 469 declares as to when the period of limitation would start. Sections 470,471 provide for exclusion of period of limitation in certain cases. Section 473 enables the court to condone the delay provided the court is satisfied with the explanation furnished by the prosecution or where the interest of justice demands extension of the period of limitation.

13. Offence under Section 420 IPC being punishable up to 7 years imprisonment, so no limitation to take cognizance of the said offence is provided and therefore, on this ground alone, FIR cannot be quashed.

14. No doubt that civil litigation ensued between the parties in respect of the sale deed in question, which has been decided up to this Court in favour of petitioner No.2 but that in itself again cannot be any ground to quash the FIR because allegations in the FIR *prima facie* make out a case of cheating, inasmuch as petitioner No.1 was an attesting witness to the sale deed and he did not disclose to the vendee-respondent No.2 at the time of executing the sale deed that the seller i.e. petitioner No.2 was minor at that time. Respondent No.2 was, thus, cheated of the valuable consideration.

15. As far as delay is concerned, again delay in itself is not a ground to quash the FIR. Hon'ble Supreme Court in **Janani Sahoo v. Chandra Sekhar Mohanty, AIR 2007 SC 2762**, dealt with the issue and

observed as under:

*“14. The general rule of criminal justice is that a crime never dies. The principle is reflected in the well-known maxim **nullum tempus aut locus occurrit regi** (lapse of time is no bar to Crown in proceeding against offenders)..... It is settled law that a criminal offence is considered as a wrong against the State and the Society even though it has been committed against an individual.*

*Normally, in serious offences, prosecution is launched by the State and a Court of Law has no power to throw away prosecution solely on the ground of delay. Mere delay in approaching a Court of Law would not by itself afford a ground for dismissing the case though it may be a relevant circumstance in reaching a final verdict.”*

16 Keeping in view the legal position as discussed above and applying the same to the facts of the present case, it is held that no case is made out for quashing the FIR and the subsequent proceedings.

17. As such, present petition is hereby dismissed. However, it is made clear that trial court is not to be influenced by anything observed in this order while deciding the case on merits.

February 01, 2023

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(DEEPAK GUPTA)  
JUDGE

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|----------------------------|--------|
| Whether reasoned/speaking: | Yes/No |
| Whether reportable:        | Yes/No |