201 (First case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39787-2015 (O&M)
DATE OF DECISION: 20.07.2023

Kamaljit Kaur **…Petitioner**

Versus

State of Punjab and another **…Respondents**

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pandit Vinod Sharma, Advocate and
Mr. Dharmanshu Sharma, Advocate,
For the petitioner.

Mr. Virat Rana, AAG, Punjab.

Ms. Bhavna Kapur, Advocate and
Mr. Nitin Gupta, Advocate
For respondent No.2.

ARUN MONGA, J. (ORAL)

Petitioner seeks quashing of FIR No.192 dated 20.07.2013 (Annexure P-1) registered under Sections 406, 420 of Indian Penal Code (hereinafter referred to as "IPC") (Section 120-B IPC added later), at Police Station Phillaur, District Jalandhar, investigation whereof has been transferred to Police Station NRI, Jalandhar City.

2. Per FIR, complainant Karam Singh moved a complaint to Chairman, NRI, Punjab, to the effect that he along with his family was residing in England from the last 50 years. Baljinder Singh Gill was taking care of his properties in India, who in connivance with others committed fraud with him. They executed exchange deeds of his properties worth crores of rupees on the basis of power of attorney given by him in favour of Baljinder Singh Gill.

3. Learned counsel for petitioner contends that petitioner has been falsely implicated in the case, being wife of Baljinder Singh Gill, who was

SHALINI BHATIA
2023.07.31 19:36
I attest to the accuracy and
integrity of this order/ judgment

taking care of the properties of complainant. Petitioner is a housewife. He further submits that FIR in question was initially registered against Makhan Singh only. He further argues that petitioner purchased 3 Marlas 5 Sarsain(3¼ Marlas) of land from complainant for a sale consideration of Rs.2 lakh. Complainant himself appeared before the Sub-Registrar and got the sale deed registered. He further submits that petitioner is a *bona fide* purchaser for consideration and controversy involved is purely civil in nature. The allegations of cheating and fraud are not at all made out against petitioner.

3.1 Learned counsel would further argue that challan has already been presented. However, charges are yet to be framed.

4. On the other hand, learned State counsel, assisted by learned counsel for complainant, opposes the petition. He, on instructions from ASI Bhupinder Singh, submits that complicity of petitioner in the commission of the offences is well constituted from the allegations in the FIR and she has been rightly prosecuted. Moreover, learned Court below is already seized of the matter and trial has commenced.

4.1. Learned counsel for respondent No.2 further contends that petitioner is at liberty to take up the pleas sought to be raised by her by way of present petition during the course of trial. No ground for quashing the FIR is made out.

5. Arguments heard.

6. Per stand of petitioner, she is a housewife. She purchased one small piece of land from complainant after paying due consideration. Complainant himself appeared before the Sub-Registrar and got the sale deed dated 24.02.2011 executed. Property which the petitioner purchased from complainant is not mentioned in the FIR in question. Neither purchase of property nor execution of sale deed by the complainant in favour of petitioner is under dispute. Initially FIR was registered against one Makhan Singh only and subsequently, Section 120-B IPC was added in which name of the petitioner as

SHALINI BHATIA
2023.07.31 19:36
I attest to the accuracy and
integrity of this order/ judgment

co-accused emerged for the first time. FIR was registered after two and a half years of execution of sale deed regarding property purchased by the petitioner.

7. From the allegations, it is *prima facie* borne out that petitioner has been roped in being the wife of Baljinder Singh Gill, who was taking care of the entire properties of complainant. There is no direct and cogent evidence connecting the petitioner with the fraud committed with the complainant. Be that as it may, same is matter of trial and cannot be summarily adjudicated.

8. In view the above, without commenting on merits of the case, instant petition is disposed of with an observation that petitioner be not called to Court until or unless her cross-examination is to be done/conducted.

9. It is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant petition alone and learned trial Court shall proceed without being influenced with this order.

10. Pending application(s), if any, shall also stand disposed of.

JULY 20, 2023 **(ARUN MONGA)**
Shalini **JUDGE**

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

SHALINI BHATIA
2023.07.31 19:36
I attest to the accuracy and
integrity of this order/ judgment