

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

**CRM-M-34022-2022**

**Date of Decision: January 30, 2023**

**Dipinder Singh Brar**

**...Petitioner**

**Versus**

**State of Punjab and others**

**...Respondents**

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

**Present:-** Mr. S.S. Narula and Mr. G.S. Dhillon, Advocates  
for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. J.S. Toor, Addl. P.P. for U.T., Chandigarh  
for respondent No.2.

Mr. Preetinder Singh Ahluwalia and Mr. Jagat Vir Dhindsa,  
Advocates for respondent No.3.

Mr. Pawan Mutneja, Sr. Advocate with  
Mr. Satyam Tandon, Ms. Suverna Mutreja, Advocates  
for respondent No.4.

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

Prayer in this petition filed under Section 482 Cr.P.C. is to treat FIR No.208 dated 02.10.2021, registered at Police Station Mataur, District S.A.S. Nagar, Mohali, under Sections 409, 419, 420, 465, 467, 468, 471 and 120-B of IPC to be the First Information Report/case with further direction to treat any other case registered subsequently for the same incident of cheating including case FIR No.151 dated 06.10.2021, registered at Police Station Central, Sector 17, Chandigarh, under Sections 420, 467, 468, 471 and 120-B of IPC as statement under Section 162 Cr.P.C. Alternative prayer made by the petitioner is to quash FIR No.151 of 06.10.2021 as above on account of the same disclosing no offence whatsoever insofar as the complaint made by respondent No.4 is concerned and that the report under Section 173 Cr.P.C. (Annexure P-5)

of the said case having been prepared on the basis of complaint made by

respondent No.3, for which FIR No.208 of 02.10.2021 as above, was registered. Another prayer made by the petitioner is that all the proceedings emanating from FIR No.151 of 06.10.2021 as above be directed to be merged and tried with proceedings arising out of FIR No.208 of 02.10.2021, pending in the Court of learned Judicial Magistrate 1<sup>st</sup> Class, S.A.S. Nagar, Mohali.

2. It emerges that House No.20, Sector 5, Chandigarh was owned by four persons, namely Dipinder Singh Brar (petitioner), his wife Dr. Amita Brar (respondent No.3) and their daughters, namely Reetika and Sunamika Brar to the extent of 1/4<sup>th</sup> share each. Dr. Amita Brar executed a registered General Power of Attorney (GPA) dated 20.09.2012 in favour of her husband Dipinder Singh Brar regarding her share in the aforesaid house. On the basis of this GPA, 1/4<sup>th</sup> share of Dr. Amita Brar was sold by Dipinder Singh Brar in favour of respondent No.4 Vikramjit Kaushik, vide registered sale deed dated 04.09.2020. On the same day i.e. 04.09.2020, petitioner Dipinder Singh Brar also sold his 1/4<sup>th</sup> share in the house to respondent No.4 Vikramjit Kaushik. The amount of ₹ 29,00,000/- was deposited in the joint account of petitioner and his wife-respondent No.3 as maintained in Canara Bank, regarding which respondent No.3 had duly received a message. Another joint account in the name of the petitioner and respondent No.3 was opened in Equitas Small Finance Bank on 04.09.2020, in which an amount of ₹ 1,66,32,750/- was deposited on 07.09.2020; and another amount of ₹ 4,23,00,000/- each towards the share of petitioner and respondent No.3 was deposited in the same joint account in Equitas Small Finance Bank

on 20.10.2020.

3. Apart from above, respondent No.4 has another agreement to sell dated 09.10.2020 in his favour executed by Reetika Brar regarding her 1/4<sup>th</sup> share. The amount of ₹74,43.750/- was deposited on said date of 09.10.2020 in the joint bank account of Reetika Brar and Dipinder Singh Brar. Another amount of ₹1,75,00,000/- was also deposited in their joint account on 31.12.2020.

4. FIR No.208 dated 02.10.2021 was registered at Police Station Mataur, S.A.S. Nagar, Mohali, on the complaint of respondent No.3 under Sections 409, 419, 420, 465, 467, 468, 471 and 120-B of IPC on the allegations that petitioner had forged her signatures i.e. respondent No.3's signatures to open the joint bank account.

On the other hand, FIR No.151 dated 06.10.2021 has been registered at Police Station Central, Sector 17, Chandigarh, under Sections 420, 467, 468, 471 and 120-B of IPC on the complaint of respondent No.4 Vikramjit Kaushik with the allegations that petitioner and respondent No.3 cheated him by hatching a conspiracy with each other in selling House No.20, Sector 5, Chandigarh and despite receiving the entire sale consideration qua their share, they have not delivered possession of their share i.e. more particularly ground floor of the house.

5. Contention of the petitioner is that he was induced by respondent No.4 and his cohorts to purchase some other land and to arrange the funds by selling House No.20, Sector 5, Chandigarh. It is contended that both FIRs are in respect of the same allegations. Though, FIR No.151 has been lodged on the complaint of respondent No.4 but it is by taking into account the statement of respondent No.3 that

investigation has been carried out and so the statement of respondent No.4 in FIR No.151 should be treated as the statement under Section 162 Cr.P.C. in FIR No.208 Prayer is made to quash FIR No.151 and alternatively, to club both the cases to be tried by the same Court.

6. Learned State counsel representing respondent Nos.1 and 2 as well as counsel for respondent No.4 have strongly opposed the petition. It is pointed out that bail petition of the petitioner has already been rejected. Even the anticipatory bail application moved by respondent No.3 in FIR No.151 lodged on the complaint of respondent No.4 Vikramjit Kaushik has also been dismissed and it has been observed by this Court while dismissing the bail petition that both husband and wife i.e. petitioner and respondent No.3 respectively were in collusion with each other in order to defraud respondent No.4.

7. Ld. Counsel for respondent No.4 has taken pains to make comparison of the two FIRs in a tabular form, which is as under:-

| FIR                            | FIR No.151                                                                                                    | FIR No.208                                                                    |
|--------------------------------|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Complainant                    | Vikramjit Kaushik                                                                                             | Amita Brar                                                                    |
| Accused                        | Dipinder Brar and Amita Brar                                                                                  | Dipinder Brar, Vikramjit Kaushik, Chetan Kashyap, Anil Sachdeva               |
| Police Station                 | Police Station Central 17 (Chandigarh)                                                                        | SAS Nagar, Mohali (Punjab)                                                    |
| Dated                          | 06.10.2021                                                                                                    | 02.10.2021                                                                    |
| Sections under IPC             | 120-B, 406, 420, 467, 468, 471                                                                                | 120-B, 406, 409, 419, 420, 465, 467, 468, 471                                 |
| Comparison                     | Sections 409, 419 and 465 are additionally present in FIR No.208 and are not present in FIR No.151            |                                                                               |
| Instance/Incident /Transaction | That Dipinder Brar and Amita Brar cheated Vikramjit Kaushik in selling him House No.20, Sector 05, Chandigarh | That Dipinder Brar forged Amita Brar's signatures to open joint bank accounts |
| Status                         | Challan under Section 173 are filed, and Dipinder Brar is under custody                                       | Challan under Section 173 are filed. No action has been taken thereafter.     |

|         |                                                                                                                                                                                                                   |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bail(s) | Regular bail denied twice by Ld. Lower Courts to Dipinder Brar, and he is in custody.<br>Anticipatory bail denied twice by Ld. Lower Court and Hon'ble High Court to Amita Brar. She has still not been arrested. |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

On the basis of the various difference in the two FIRs, prayer is made for dismissing the petition by submitting that there is no similarity of allegations.

8. Having considered submissions of counsel for all the sides, I find no merit in this petition.

9. Section 162 Cr.P.C. reads as under:-

*“162. Statements to police not to be signed: Use of statements in evidence.—(1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made: Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872); and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.”*

10 Analysis of aforesaid provision would reveal that by no stretch of imagination, the allegation contained in FIR No.151 can be treated as statement under Section 162 Cr.P.C. in FIR No.208, because the scope and object of Section 162 Cr.P.C. is to make any statement

before the police in the course of an investigation inadmissible except for the purpose of contradicting the witness.

11. As the allegations made in the two FIRs reveal, the petitioner along with his wife-respondent No.3 i.e. complainant of FIR No.208 in criminal conspiracy with each other had defrauded respondent No.4 i.e. complainant of FIR No.151 and after getting the money in lieu of sale consideration of the property sold by him, appears to have purposely got registered FIR No.208 to rebut the allegations of respondent No.4 contained in FIR No.151 i.e. of cheating and forgery.

12. The Hon'ble Supreme Court in ***P. Vide P. Sreekumar v. State of Kerala, (2018) 4 SCC***, the Hon'ble Supreme Court has held that:-

*“30. Keeping the aforesaid principle of law in mind when we examine the facts of the case at hand, we find that the second FIR filed by the appellant against Respondent 3 though related to the same incident for which the first FIR was filed by Respondent 2 against the appellant- Respondent 3 and three bank officials, yet the second FIR being in the nature of a counter-complaint against Respondent 3 was legally maintainable and could be entertained for being tried on its merits.*

*31. In other words, there is no prohibition in law to file the second FIR and once it is filed, such FIR is capable of being taken note of and tried on merits in accordance with law.*

*32. It is for the reasons that firstly, the second FIR was not filed by the same person, who had filed the first FIR. Had it been so, then the situation would have been somewhat different. Such was not the case here: it was filed by the appellant as a counter-complaint against Respondent 3; third, the first FIR was against five persons based on one set of allegations whereas the second FIR was based on the allegations different from the allegations made in the first FIR; and lastly, the High Court while quashing the second FIR/charge-sheet did not examine the issue arising in the case in the light of law laid down by this Court in the two*

*aforementioned decisions of this Court in Upkar Singh [Upkar Singh v Ved Prakash, (2004) 13 SCC 292: 200 SCC (Cri) 211] and Surender Kaushik [Surender Kaushik v. State U.P., (2013) 5 SCC 148: (2013) 2 SCC (Cri) 953] and simply referred the three decisions of this Court has laid down general principle of law relating to exercise of inherent powers under Section 482 of the Code."*

13. High Court of Telangana in ***Jakka Vinod Kumar Reddy & another v. The State of Telangana & another***, while discussing the ***P. Sreekumar v. State of Kerala, (2018) 4 SCC*** held as follows for these kinds of cases: -

*"20. The sum and substance of the above said judgments is that there is no embargo for registration of two FIRS on the following circumstances/grounds:*

- (a) where the allegations made in both the FIRS are from different spectrum, where there are different versions from different persons;*
- (b) same set of facts may constitute different offences;*
- (c) where there are two distinct offences having different ingredients;*
- (d) where the allegations are different and distinct;*
- (e) when there are rival versions in respect of same episode, they would normally take shape of two different FIRS and investigation can be carried out under both of them by the same Investigating Agency.*

*21. The Court which is examining permissibility of registration of second FIR has to consider whether there is substance of allegation and overlapping feature made in both the complaints. The Court has to further consider the truth of sameness and that whether the allegations are different and distinct. If the allegations in both the complaints are same between same persons, then registration of second FIR is not maintainable."*

14. Applying the legal position as discussed above to the facts of present case, the comparative table of the two FIRs would clearly reveal

that complainant in both the cases are different. Allegations are different. The two FIRs have been registered in two different Police Stations. In FIR No.151, petitioner and respondent No.3 are alleged culprits; whereas, in FIR No.208 apart from the petitioner, respondent No.4 Vikramjit Kaushik, Chetan Kashyap and Anil Sachdeva are the alleged culprits. Sections 409, 419 and 465 of IPC are additionally present in FIR No.208, which are not therein FIR No.151. The base allegations are different inasmuch as in FIR No.208, petitioner forged signatures of respondent No.3 to open a join account; whereas in FIR No.151, allegations are that petitioner and respondent No.3 cheated respondent No.4 in selling him House No.20, Sector 5, Chandigarh.

15. As such, the present petition is held to be devoid of any merits. The same is hereby dismissed.

**January 30, 2023**  
sarita

**(DEEPAK GUPTA)**  
**JUDGE**

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