

**CRR-2920-2017 (O&M)&
CRR-3050-2017 (O&M)**

2023:PHHC:122288

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
244/A**

CRR-2920-2017 (O&M)

Date of decision: September 14, 2023

Noora

....Petitioner

versus

State of Haryana and another

....Respondents

CRR-3050-2017 (O&M)

Ziaulhaq

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Liaqat Ali, Advocate for petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. J.S.Dahiya, Advocate,
for respondent no.2.

ARUN MONGA, J. (ORAL)

**CRM-26510-2017 in CRR-2920-2017&
CRM-27329-2017 in CRR-3050-2017**

For the reasons stated in the applications, same are allowed and delay of 46 days and 61 days, respectively in filing the accompanying petitions are condoned, subject to all just exceptions.

CRR-2920-2017 & CRR-3050-2017

Vide this common order, above-mentioned two cases are being disposed of since facts are analogous and issues raised therein are common. For brevity, recitals are taken from CRR-2920-2017.

2. Petitioners herein are impugning an order dated 30.03.2017, passed by learned Judicial Magistrate 1st Class, Jagadhari, whereby charges under Sections 420, 468, 467, 406, 471 and 120-B of the IPC have been framed against them in a case bearing FIR No.433 dated 14.12.2013 registered at Police Station, Farakpur, District Yamunanagar.

3. The learned counsel for the petitioners argues that the trial court has gravely erred in framing charges against the petitioners.

3.1. He further asserts that petitioner Noora had been supplying vegetables and fruits to the family of respondent no. 2 and had a very amicable relationship with the complainant's family. Respondent no. 2, the complainant, provided Rs. 6 lakh to petitioner Noora for business purposes, with the intention of successfully running the business together. Subsequently, petitioner Noora, as part of a Panchayati compromise, attested by witnesses, returned Rs. 2.40 lakh out of the total Rs. 6 lakh and promised to repay the remaining amount after receiving funds from the complainant's partners, namely, Khushnasib, son of Nazir, and Sattar, son of Liaqat.

3.2. The learned counsel for the petitioners contends that the complainant, respondent no. 2, received Rs. 4,80,000/- from petitioner Ziaulhaq (in CRR-3050-2017), who is the nephew of petitioner Noora. This transaction was guaranteed by petitioner Noora, with a promise to provide a 10% profit in the business. However, neither any profit was given to petitioner Ziaulhaq nor did the complainant, respondent no. 2, return the Rs. 4,80,000/- borrowed from his nephew Ziaulhaq. Subsequently, a settlement dated 03.05.2013 was reached between respondent no. 2 and petitioner Ziaulhaq, in which the former admitted his obligation to repay the amount to Ziaulhaq.

3.3. The learned counsel further submits that instead of returning the money, the complainant, respondent no. 2, and his associates assaulted petitioner Ziaulhaq, leading to the registration of FIR No. 294 dated 29.06.2013 against them under Sections 324, 307, and 506 of the IPC at Police Station, Jhinhana.

3.4. The learned counsel for the petitioners further argues that the complainant, respondent no. 2, registered the current FIR against petitioner Noora and his nephew Ziaulhaq (petitioner in CRR-3050-2017) as a retaliatory move to pressure them into settling the matter.

3.5. Lastly, the learned counsel for the petitioners contends that the current matter is of a civil nature but has been wrongly portrayed as a criminal case.

4. *Per contra*, learned State counsel submits that no fault can be found with the approach of learned trial Court in framing charges against the petitioners. Petitioners hatched a criminal conspiracy and dishonestly induced respondent no.2 and his brother to purchase a piece of land for a sum of Rs.12 lakh and received approximately Rs.6 lakh. They neither executed any agreement to sell nor sale deed in respect of the said land in favour of respondent no.2. The petitioners also forged the identity cards to use them for the purpose of cheating. *Prima facie* the petitioners appear to be guilty, contends the learned State counsel.

5. Arguments heard.

6. Order dated 30.03.2017, impugned herein, is being reproduced hereinbelow for ready reference:-

“Heard on charge. From the perusal of police reports as well as documents the attached with and after hearing the learned APP and learned defence counsel, there are sufficient grounds for presuming that the accused have committed the offences punishable under section 420, 468, 467, 406, 471 and 120-B of IPC. As such, they be charge-sheeted accordingly. Charge-sheet has been framed against the accused to which they pleaded not guilty and claimed trial. Now the case is adjourned to 8.6.17 for prosecution evidence. PWS be summoned for the date fixed.”

7. Basic legal principle applicable at the stage of framing of the charges is the existence of *prima facie* ground for presuming that accused has committed the offence and available evidence against the accused for being tried in a criminal trial. At that stage, such evidence is not to be evaluated on merits. No doubt, strong suspicion alone is not enough to establish guilt, but it plays a crucial role in initiating legal proceedings against an accused. In essence, suspicion can trigger legal action, but it must eventually be substantiated with evidence to secure a conviction. In other words, while a strong suspicion is insufficient to conclusively establish a person's guilt at the end of a trial, it serves as a vital factor at the time of framing the charges. Essentially, if there exists a strong suspicion that provides reasonable grounds for presuming that the accused might have committed an offense, the court can proceed to frame charges accordingly.

8. In the instant case, I do not find any legal infirmity in the impugned order passed by learned Court below so as to warrant any interference, at this stage.
9. Pending application(s), if any, shall also stand disposed of.
10. Photocopy of this order be placed on the file of the connected case.

(ARUN MONGA)
JUDGE

September 14, 2023
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Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No