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

**CRM-M No.51959 of 2022  
Date of Decision: 25.01.2023**

**Harbans Singh Sandhu**

**..... Petitioner**

**Versus**

**State of Punjab and another**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

Present: Mr. Vaibhav Sehgal, Advocate  
for the petitioner.

Mr. Gurpreet Singh Shergill, AAG, Punjab.

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**GURBIR SINGH, J (ORAL)**

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.164, dated 01.08.2022, under Sections 420, 406 of IPC, registered at Police Station Sarabha Nagar, Police Commissionerate, Ludhiana (Annexure P-2) and all consequential proceedings arising therefrom.

The FIR in question was registered against the petitioner on the basis of application dated 13.03.2022 moved by respondent No.2 to the DCP Investigation. In the complaint, the complainant alleged that he was the land owner and agriculturist. He entered into an agreement to purchase qua land measuring about 3 Killas comprised in specific Khasra numbers situated in Galib Kalan-2, as per Jamabandi for the year 2019-20, Hadbast No,124, Tehsil Jagraon, District Ludhiana with the petitioner at the rate of

Rs.23.00 Lacs per Killa. He entered into an agreement to purchase dated 17.02.2021 and he paid sum of Rs.25,000/- on 17.02.2021 and Rs.75,000/- on 20.02.2021 in cash as earnest money and it was settled between them that agreement to sell shall be executed within 15 days thereafter and date of execution of sale deed will be in the month of October, 2021. When the complainant contacted the petitioner on phone, the petitioner stopped attending his calls and was also not available at his house. The petitioner's servant used to say that the petitioner was ill and suffering from Corona and could not meet anyone. In the month of December, 2021, the complainant met a person namely, Sukhwinder Singh of village Gahaur, who told that he had also entered into agreement to sell of the above mentioned land with the petitioner in November, 2021 and the petitioner had received sum of Rs.5.00 Lacs in his account and Rs.5.00 lacs in cash as earnest money and he was not responding to his phone calls. When the complainant enquired about this person, it came to light that many cases are pending against him and his sons regarding money transactions with other persons. The petitioner had also received Rs.2.00 Lacs from one person, namely, Mohan Singh Virk, resident of Hambran as earnest money regarding the same land and the petitioner was not attending phone calls of all these persons and further threatened them that he would neither execute sale deed nor return the money. The complainant further stated that he was ready and willing to pay the remaining amount for getting the sale deed registered in his favour. On the basis of preliminary inquiry, the case was registered.

Learned counsel for the petitioner submits that the petitioner is a senior citizen and presently the Chairman of Shree Guru Harkrishan

Public School, Bathinda and is former Chairman of S.G.T.D. College of Engineering and Technology, Malaudh. The petitioner is the owner of the Hotel/Restaurant, namely, Mini Holland, Dakha, which was purchased by the petitioner through registered sale deeds dated 27.07.2016 and 01.08.2016. In the month of August, 2019, Sandeep Singh Sekhon, Paramvir Singh, Sandeep Singh son of Karamjit Singh approached the petitioner and showed their intention of taking the above mentioned hotel/restaurant on rent and the petitioner agreed for the same and premises was given on rent on 01.08.2019 at the rate of Rs.1.50 Lakhs per month. The above-said persons forged and fabricated documents for the purpose of usurping the hotel/restaurant of the petitioner. When forgery was brought to the notice of the petitioner, then the petitioner moved a complaint on 23.03.2022 and on the basis of preliminary inquiry, FIR No.86, dated 03.06.2022 was registered against the said persons. Respondent No.2 is the man of the accused in the above-said FIR No.86. Petitioner is the owner of agricultural land in village Galib Kalan, Tehsil Jagraon, District Ludhiana. But FIR in question was registered at Police Station Sarabha Nagar, Police Commissionerate, Ludhiana. Galib Kalan is not within the jurisdiction of Sarabha Nagar, Police Commissionerate, Ludhiana. No agreement to sell was ever entered into with other persons. The only allegation levelled against the petitioner is that the petitioner had agreed to sell the agricultural land to respondent No.2 and respondent No.2 gave the token money of Rs. 1 Lakh to the petitioner. No agreement to sell was entered into between the parties and no such amount of token money was received by the petitioner. The dispute, if any, is of civil nature. The criminal law could not be said

into the motion, if, dispute is only civil in nature. At the most, it is a simple case of breach of civil contract. Multiple complaints from different persons are being filed against the petitioner at the instance of the accused of FIR No.86, dated 03.06.2022, got registered by the petitioner.

Learned counsel for the petitioner has relied upon a judgment a Hon'ble Supreme Court of India passed in “***Vijay Kumar Ghai and others vs. State of West Bengal and others***”, 2022(2) RCR (Criminal) 528, wherein it has been held that a mere breach of contract cannot give rise to criminal prosecution for cheating.

Learned State counsel has submitted that after taking token money of Rs.1 Lakh from respondent No.2-complainant, the petitioner agreed to sell the property to some other person. The petitioner has received Rs.2.00 Lakhs from one person, namely, Mohan Singh Virk, resident of Hambran, as earnest money by way of agreement for selling the same land. In the year 2021, the petitioner had entered into an agreement to sell regarding land measuring 25 Kanals 6 Marlas and land measuring 1 Kanal 15 Marlas with Sukhwinder Singh. As per jamabandi of the year 2019-20, the petitioner also agreed to sell the land measuring 12.5 Marlas of his brother-in-law/Jija, namely, Charanjit Singh Grewal, resident of Australia for an amount of Rs.2.00 Lakhs per Killa with Sukhwinder Singh and at that time, the petitioner had undertaken that he would be responsible to get the sale deed executed of the property of his brother-in-law. Thereafter, the petitioner received Rs.10.00 Lakhs in cash and Rs.5.00 Lakhs by way of a cheque. Thus, petitioner had committed cheating with the complainant.

I have heard learned counsel for the parties and going through

the material available on record.

Cheating is defined under Sections 415 and 420 of the IPC and the same are as under:

***“415. Cheating*** - *Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.*

The essential ingredients of the offense of cheating are:

1. Deception of any person
- 2.(a) Fraudulently or dishonestly inducing that person-
  - (i) to deliver any property to any person: or
  - (ii) to consent that any person shall retain any property; or
- (b) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were no so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body,mind,reputation or property.

A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

Section 420 IPC defines cheating and dishonestly inducing delivery of property which reads as under: -

***“420. Cheating and dishonestly inducing delivery of property*** - *Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

Section 420 IPC is a serious form of cheating that includes inducement (to lead or move someone to happen) in terms of delivery of property as well as valuable securities. This section is

also applicable to matters where the destruction of the property is caused by the way of cheating or inducement. Punishment for cheating is provided under this section which may extend to 7 years and also makes the person liable to fine.

To establish the offence of Cheating in inducing the delivery of property, the following ingredients need to be proved:-

1. The representation made by the person was false
2. The accused had prior knowledge that the representation he made was false.
3. The accused made false representation with dishonest intention in order to deceive the person to whom it was made.
4. The act where the accused induced the person to deliver the property or to perform or to abstain from any act which the person would have not done or had otherwise committed.”

In the case of “*Hridaya Ranjan Prasad Verma and others vs. State of Bihar and another*”, (2000) 4 SCC 168, the Hon'ble Supreme Court has held that the distinction between mere breach of contract and cheating, which is criminal offence, is a fine one. While breach of contract cannot give rise to criminal prosecution for cheating, fraudulent or dishonest intention is the basis of the offence of cheating.

In the case of *Vijay Kumar Ghai (supra)*, it has been held by Hon'ble the Supreme Court that breach of contract cannot give rise to criminal prosecution for cheating. In the case in hand, no agreement to sell was written. The allegations are that the petitioner agreed to sell the land at the rate of Rs.23.00 Lakhs per Killa and paid sum of Rs.1 Lakh as token money and further agreed to execute the agreement to sell within 15 days and sale deed of the said land on or before. It is not believable that sum of Rs.1 Lakh in cash as token money was paid without any receipt, on the

promise to execute the agreement to sell within 15 days.

The dispute between the parties is civil in nature. Any transaction by the petitioner with other persons cannot be seen that the petitioner had dishonest intention at the time of receipt of token money. The provisions of Section 420 IPC are not attracted at all against the petitioner. The lodging of FIR is an abuse of process of law, and thus, deserves to be quashed.

Consequently, this petition is disposed of. The impugned FIR No.164, dated 01.08.2022, under Sections 420, 406 of IPC, registered at Police Station Sarabha Nagar, Police Commissionerate, Ludhiana, and all consequential proceedings arising therefrom are hereby quashed, *qua* the petitioner only.

**25.01.2023**

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**(GURBIR SINGH)  
JUDGE**

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