



CRM-M-6737-2020 (O&M) and another connected case
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119 + 266 - 2 cases

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

Date of Decision:- 01.08.2024

(1)

CRM-M-6737-2020 (O&M)

Surjit Singh ...Petitioner

Vs.

State of Punjab and Another ...Respondents

(2)

CRM-M-16645-2022

Charan Singh ...Petitioner

Vs.

State of Punjab ...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. B.S. Bhalla, Advocate
for the petitioner in CRM-M-6737-2020.

Mr. P.S. Ahluwalia, Advocate
for the petitioner in CRM-M-16645-2022.

Mr. Gautam Thapar, AAG, Punjab.

Mr. Tejinder Singh Sandhu, Advocate
for respondent No. 2/complainant.

AMARJOT BHATTI, J.

CRM-30127-2024 in CRM-M-6737-2020

This is an application filed under Section 482 Cr.P.C. for placing
on record Agreement dated 23.08.2012 executed between petitioner-Surjit
Singh and respondent No. 2, vide Annexure R-2 and for exempting from

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filing certified copy of said document.

For the reasons enumerated in application, same is allowed. Accompanied document Annexure R-2 is taken on record and exemption from filing certified copy of same is allowed, subject to just exceptions.

CRM stands disposed of.

CRM-M-6737-2020 and CRM-M-16645-2022

1. This order shall dispose of CRM-M-6737-2020 and CRM-M-16645-2022. With the consent of learned counsel for parties, both these petitions are being taken up together for consideration and adjudication arising out of same FIR.

2. Petitioners Surjit Singh and Charan Singh have filed separate petitions under Section 482 Cr.P.C. for quashing of FIR No. 42 dated 05.03.2017, Annexure P-3 (Annexure P-1 in CRM-M-16645-2022), under Section 420, 120-B of Indian Penal Code, 1860, registered at Police Station Jamalpur, District Ludhiana and order dated 19.10.2019, Annexure P-5 (Annexure P-3 in CRM-M-16645-2022), passed by learned Judicial Magistrate Ist Class, Ludhiana.

For the convenience of this Court, documents mentioned in CRM-M No. 6737-2020 are referred.

3. Facts of the case are Avtar Singh complainant filed complaint regarding cheating in sale of plot. As per status report, preliminary enquiry was conducted by ADCP-4 Ludhiana and after getting opinion of D.A. (Legal) by DCP, Ludhiana, FIR under Section 420, 120-B of IPC was registered against both petitioners and Simranjit Kaur. Avtar Singh

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complainant/respondent No. 2 alleged that he came in contact with Surjit Singh s/o Gurbachan Singh r/o Rasal Patti Jaito, District Faridkot through his known Gurbhej Singh. He was told that there was plot measuring 1500 sq. yards out of Khata No. 26/34, Khasra No. 3, Jamabandi for the year 2004-2005 situated in Village Mundiyan Kalan, Abadi Gobind Nagar, Hadbast No. 179, Tehsil and District Ludhiana. As per record, plot was in the name of Randhir Singh s/o Lal Singh r/o Village Dhamot, Tehsil Payal, District Ludhiana and after his death, there was mutation on the basis of inheritance in favour of Simranjit Kaur widow of Randhir Singh. Simranjit Kaur had given General Power of Attorney regarding this plot duly attested by Joint Sub-Registrar Dehlon, District Ludhiana in favour of Charan Singh. Complainant Avtar Singh on the assurance of Surjit Singh agreed to purchase plot from Simranjit Kaur widow of Randhir Singh. Gurbhej Singh, Surjit Singh and Harish Kumar took him along with them and had shown a vacant plot by alleging that it was owned and possessed by Simranjit Kaur. On 23.08.2012, Surjit Singh, Simranjit Kaur and Charan Singh struck a deal regarding said fake plot and received Rs. 45,00,000/- from complainant on the basis of agreement dated 23.08.2012 and sale deed was executed on 24.08.2012 after receiving balance of Rs. 8,25,000/-. Complainant visited the spot for taking possession of plot and it was found that plot was not in existence on the spot. In-fact by showing some other plot, sale deed dated 24.08.2012 was got executed and registered for alleged plot of 1500 Sq. Yards by obtaining total sale consideration of Rs. 53,25,000/-. In this way, aforesaid persons cheated the complainant. With

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these allegations present FIR was registered.

4. On this complaint, inquiry was conducted and in said inquiry, it was concluded that Surjit Singh, Simranjit Kaur and Charan Singh committed offence under Section 420 and 120-B of IPC and inquiry report was submitted before Commissioner of Police, Ludhiana and after obtaining legal opinion of D.A. Legal, Ludhiana by the orders of Deputy Commissioner of Police, Ludhiana, said FIR was registered. On completion of inquiry, challan was also prepared on 14.06.2017 which was approved by Deputy D.A./D.A. Prosecution, Ludhiana. Thereafter, intimation was received that Punjab Government had appointed a Commission in respect of false cases registered by previous Government where Surjit Singh had given application regarding false registration of case against him. Thus challan was to be presented after said inquiry. A letter No. 607 dated 17.07.2017 was also received. After inquiry, cancellation report, Annexure P-2 (in CRM-M-16645-2022) was prepared and accordingly after getting approval, was presented in the Court. On presentation of cancellation report, notice was given to complainant who filed protest petition, not agreeing with cancellation report. After considering the record, learned Judicial Magistrate Ist Class, Ludhiana vide impugned order dated 19.10.2019 (Annexure P-5) treated cancellation report as challan and accused were ordered to be summoned to face trial under Section 420, 120-B of IPC. Feeling aggrieved of this order, aforesaid petitions have been filed by petitioners Surjit Singh and Charan Singh.

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5. Learned counsel for petitioner Surjit Singh in CRM-M-6737-2020 argued that Surjit Singh was son-in-law of Roop Singh who had entered into agreement to sell regarding 1500 Sq. Yards of land bearing Khata No. 26/34, Khasra No. 3, Jamabandi for the year 2004-2005 situated in Village Mundiyan Kalan, Abadi Gobind Nagar, Hadbast No. 179, Tehsil and District Ludhiana. As per agreement, Avtar Singh complainant had paid sale consideration to the tune of Rs. 45 lacs to petitioner. Later on, sale deed dated 24.08.2012 was executed regarding the plot in question by Simranjit Kaur widow of Randhir Singh through her General Power of Attorney Charan Singh and possession of property was delivered to purchaser Avtar Singh respondent No. 2. Said Avtar Singh filed application before SSP, Faridkot alleging fraud on the part of petitioner and others after a gap of two and a half years. Matter was inquired by Superintendent of Police (Investigation), Faridkot who gave his detailed report dated 30.11.2015, Annexure P-2 specifically mentioning that no criminal offence was made out and matter was civil in nature. Contents of FIR clearly indicate that present petitioner was not owner of property and he was not competent to sell the same. He had merely executed agreement in favour of respondent No. 2 Avtar Singh. Finally sale deed was executed by Simranjit Kaur through her Power of Attorney holder Charan Singh. Avtar Singh was delivered possession of the plot in question. Thereafter, he had no link with said property. Respondent No. 2 did not bother about his property and some unknown person raised construction over that property. Now he cannot shift the burden on petitioner and others. Thus, petitioner

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approached Commission constituted by State Government to inquire about false registration of cases and his case was recommended for cancellation of FIR. Copy of order dated 27.09.2017 in Complaint No. 192 dated 17.05.2017 is Annexure P-4. In compliance to said recommendation, cancellation report was submitted. However, without appreciating facts of case, cancellation report was not accepted and it was treated as challan and accused were ordered to be summoned to face trial under Section 420, 120-B of IPC by passing impugned order dated 19.10.2019, which is Annexure P-5. There was no proper appreciation of facts and role attributed to present petitioner. The cancellation report was wrongly rejected. It is submitted that FIR No. 42 dated 05.03.2017, Annexure P-3, under Section 420, 120-B of IPC, registered at Police Station Jamalpur, District Ludhiana along with order dated 19.10.2019, Annexure P-5, passed by learned Judicial Magistrate Ist Class, Ludhiana may kindly be quashed, by accepting present petition.

6. Learned counsel for petitioner Charan Singh in **CRM-M-16645-2022** argued that sale deed was executed way back in the year 2012 and present FIR has been registered after a long gap of more than two and a half years. Complainant levelled allegations against him that he while acting as attorney of Simranjit Kaur executed sale deed dated 24.08.2012 regarding plot which was not existing on the spot. In fact, on the basis of said sale deed mutation was also sanctioned in favour of complainant party. At the time of execution of sale deed possession was also delivered. Respondent No.2 Avtar Singh has never challenged said sale deed by filing

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any civil suit. There is clear recital in the sale deed that possession was handed over to purchaser. After passing of so many year complainant cannot re-agitate that no plot was in existence on the spot. In case complainant had any grievance, he could have filed a civil suit. To support his arguments on delay and laches, learned counsel for petitioner relied upon the judgment of **Hon'ble Supreme Court of India** in **2011(13) SCC 412**, titled **"M/s Thermax Ltd. & Ors. Vs. K.M. Johny & Ors."**.

Relevant para No. 29 runs as under :-

"The entire analysis of the complaints with reference to the principles enunciated above and the ingredients of Sections 405, 406, 420 read with Section 34 Indian Penal Code clearly show that there was inordinate delay and laches, the complaint itself is inherently improbable contains the flavour of civil nature and taking note of the closure of earlier three complaints that too after thorough investigation by the police, we are of the view that the Magistrate committed a grave error in calling for a report under Section 156(3) of the Code from the Crime Branch, Pune. In view of those infirmities and in the light of section 482 of the Code, the High Court ought to have quashed those proceedings to safeguard the rights of the appellants. For these reasons, the order passed by the Judicial Magistrate First Class, Pimpri in CC No. 12 of 2002 on 20.08.2007 and the judgment of the High Court dated 11.01.2008 in Criminal Writ Petition No. 1622 of 2007 are set aside. The complaint filed by Respondent No. 1 herein is quashed."

Cancellation report (Annexure P-2) submitted by Investigating Agency was wrongly ignored since complainant/respondent No. 2 Avtar Singh did not support the same, without appreciating the facts and circumstances of case. Therefore, aforesaid FIR dated 16.03.2017 under

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Section 420- 120-B of IPC (Annexure P-1) registered against Charan Singh and impugned order dated 19.10.2019 (Annexure P-3) may be quashed by accepting the present petition.

7. On the other hand, learned counsel for respondent No.2/complainant Avtar Singh in both petitions vehemently argued that it is a clear cut case of cheating. He filed reply in both petitions. In fact there was no plot of 1500 Sq. Yards in existence and by showing some other plot Surjit Singh executed agreement to sell dated 23.08.2012, which is Annexure R-2 and on the next date, Charan Singh being Special Power of Attorney holder of Simranjit Kaur executed registered sale deed dated 24.08.2012 (Annexure P-1 in CRM-M-6737-2020). Since there was no plot on the spot, complaint was filed and matter was inquired on the basis of inquiry report and on receiving opinion of D.A. Legal, present FIR was registered. Respondent No. 2 has been cheated for huge amount by both the petitioners along with Simranjit Kaur. Cancellation report submitted by prosecution was contested by respondent No. 2. Learned Judicial Magistrate 1st Class, Ludhiana rightly treated said cancellation report as challan and order dated 19.10.2019 does not require any interference. Both petitions filed by petitioners Surjit Singh and Charan Singh deserve dismissal.

Learned counsel representing State has not disputed factual position.

8. I have considered the facts of case and have gone through the record carefully. It is not disputed that Avtar Singh agreed to purchase land

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measuring 1500 Sq. Yards bearing Khata No. 26/34, Khasra No. 3, Jamabandi for the year 2004-2005 situated in Village Mundiyan Kalan, Abadi Gobind Nagar, Hadbast No. 179, Tehsil and District Ludhiana, which was previously owned by Randhir Singh and after his death it was inherited by his wife Simranjit Kaur. It is the case of respondent No.2/complainant Avtar Singh that he was shown a plot of 1500 Sq. Yards and thereafter, Surjit Singh executed agreement dated 23.08.2012 and confirmed receipt of Rs. 45 lacs. Copy of said agreement is placed on record by Avtar Singh respondent No. 2 as Annexure R-2 (in CRM-M-6737-2020). Recital of this agreement shows that it was confirmed that plot was owned by Simranjit Kaur and through her Power of Attorney holder Charan Singh sale deed was to be executed on the same day and possession of plot was also handed over on the same day to the vendee. There is copy of registered sale deed Annexure P-1 which shows that as per terms of agreement dated 23.08.2012 in favour of Avtar Singh respondent No.2, sale deed was scribed on the same day i.e. 23.08.2012 but it was got registered on 24.08.2012 at 10:25 AM. Sale deed along with endorsement of registration is Annexure P-1 in CRM-M-6737-2020. There is recital in the sale deed that entire sale consideration of Rs. 53,25,000/- was received by seller. Plot was sold with specific boundaries North-Passage, South-Neighbour, East-Neighbour and West-Passage. Apart from this, it was confirmed in sale deed that possession was also delivered to purchaser. Therefore, execution of sale deed and passing of sale consideration are not disputed by present petitioners.

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9. As per status report filed by State, Avtar Singh respondent No. 2 filed complaint dated 27.02.2016, alleging that plot referred in aforesaid sale deed was not in existence on the spot. Thus, he has been cheated by petitioners as well as Simranjit Kaur. There is nothing on record to show that Avtar Singh respondent No. 2 took any action against any of the petitioner immediately after the execution of sale deed, alleging that plot was not in existence on the spot. After long gap of more than three years, respondent No. 2 cannot raise issue of cheating. As per sale deed, he was sold plot with boundaries. He has failed to explain long silence in filing the complaint. After execution and registration of Sale Deed dated 24.08.2012 seller, her attorney or Surjit Singh were left with no interest in the property. In case of encroachment of plot, if any, matter in controversy is essentially civil in nature. Thus for this reason cancellation report was rightly recommended.

In the light of aforesaid facts and circumstances of case, I find merits in arguments advanced by learned counsel for both the petitioners. Cancellation report was simply rejected vide impugned order dated 19.10.2019, without appreciating the facts of case. Consequently, FIR No. 42 dated 05.03.2017, registered under Section 420 and 120-B of IPC at Police Station District Commissionerate, Ludhiana, Punjab and order dated 19.10.2019 rejecting cancellation report and treating it as challan report, are quashed by accepting petitions i.e. CRM-M-6737-2020 and CRM-M-16645-2022 preferred by petitioners Surjit Singh and Charan Singh respectively.



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- 10. Both the petitions are accordingly, allowed.
- 11. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

01.08.2024
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(AMARJOT BHATTI)
JUDGE

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