



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

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**CRR-1561-2016
DATE OF DECISION: 03.09.2024**

BALJIT SINGH

.....PETITIONER

Versus

STATE OF PUNJAB AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. Sukhsandesh Singh Chahal, AAG, Punjab.

SANDEEP MOUDGIL, J

1. The present revision petition has been preferred against the order dated 06.02.2016 passed by Judicial Magistrate Ist Class, Phillaur, whereby the private respondents have been discharged in the complaint filed under Section 418 IPC.

2. Learned counsel for the petitioner contends that the order passed by the trial Court suffers from illegality, perversity and the same is not sustainable in law. He contends that the complaint was filed under Section 418 IPC but the trial Court has wrongly discharged the accused by intermingling 420 IPC with the above-said Section.

3. He further submits that there was clear inducement on behalf of the private respondents and thereafter also he has been discharged by the trial Court. It has been contended that a civil suit was also pending between the parties and the same has been decreed in the favour of the petitioner which further strengthen the case of the petitioner.

4. Heard.

5. On a perusal of the impugned order, it would reveal that the present case has been registered against the respondent on the ground that the respondents have cheated the complainant in connivance with the each other with fraudulent intention to cause wrongful loss to the complainant and induced him to part away with the earnest money of the agreement to sell and thereafter has executed the sale deed in favour of the other accused namely Ravinder Kaur.

6. This Court cannot ignore the fact that prima facie it is evident that the present dispute is completely of civil nature as the petitioner and respondents have entered into agreement to sell which was not honoured by the respondents and rather further executed the sale deed in favour of some other person. Merely because that the accused person/respondents have failed to dishonour the agreement will not make him liable for the offence of cheating as the petitioner has failed to show that at the time of entering into the agreement to sell the petitioner had dishonest intention since very beginning to cheat the complainant/petitioner. A mere breach of contract by one party would not attract prosecution for criminal offence in every case.

7. In the case at hand, the dispute between the parties is essentially of civil nature and a civil suit has already decreed in favour of the petitioner. The

petitioner has failed to bring home the guilt of the accused under Section 418 IPC as he has failed to show that the accused had fraudulent or dishonest intention at the time of making the promise.

8. Dependence can be made on a recent Apex Court judgment rendered in the case of ***Usha Chakraborty & Anr. v. State of West Bengal & Anr. 2023 SCC OnLine SC 90***, wherein it has held that where a dispute which is essentially of civil nature is given a cloak of criminal offence, then, such disputes can be quashed by exercising the inherent powers under Section 482 Cr.P.C.

9. In the case of ***Paramjeet Batra v. State of Uttarakhand (2013) 11 SCC 673***, this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:

“12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a

situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.”

10. In the above backdrop, this Court is of the considered opinion that the impugned order dated 06.02.2016 passed by JMIC, Phillaur requires no interference by this Court as the same is based upon proper appreciation of the facts and by keeping in view the foregoing enunciations of the law.

11. In light of the above, the present revision petition stands dismissed.

03.09.2024

Poonam Negi

(Sandeep Moudgil)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No