



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-49704-2024
Date of decision: 04.10.2024

Lakhbir Singh and another

....Petitioners

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Ramandeep, Advocate, for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. Prayer in the instant petition filed under Section 482 Cr.P.C.is for quashing of FIR No.53 dated 17.05.2023 under Sections 420, 406 and 120-B of the IPC, 1860 registered at Police Station Sadar Patiala, District Patiala.
2. The learned counsel for the petitioners contends that the trial Court erred in framing charges against them under Sections 420 and 120-B of the Indian Penal Code (IPC), 1860, by asserting that a plain reading of the allegations in the FIR (Annxure P-1) does not disclose the essential elements required to attract these offences. The learned counsel, while drawing this Court's attention to the FIR, submits that the nature of the dispute is fundamentally civil, and it has been deliberately given a criminal colour to exert undue pressure on the petitioners to refund the amount allegedly paid by the complainant. The learned counsel further points out that in the complainant's original complaint to the Senior Superintendent of



Police (SSP), as is evident from a perusal of Annexure P-2, the complainant merely sought the execution of a sale deed in his favour. Therefore, no offence under Sections 420 or 406 of the IPC is made out against the petitioners. The complainant, if aggrieved, should have approached the civil court for a remedy—either by filing a suit for specific performance of the agreement to sell or for the recovery of the earnest money allegedly paid. It is also submitted by the learned counsel that the complainant has falsely accused the petitioners of concealing the fact that they had taken a loan on the property in question and are now avoiding repayment to evade executing the sale deed. However, the agreement to sell, dated 20.11.2020, clearly states that the petitioners had disclosed the existence of the loan to the complainant. Moreover, it is argued that there are no ingredients of the offences under Sections 420 or 406 IPC in the present case, as the transaction between the parties was purely commercial in nature. The petitioners were not entrusted with any property by the complainant, and therefore, the refusal to execute the sale deed cannot be construed as misappropriation.

3. The counsel further emphasizes that the advance payment made by the complainant towards the agreement cannot be treated as entrusted property, and the non-execution of the sale deed does not amount to an offence under Section 406 IPC. Consequently, it has been vehemently argued that the allegations under Sections 406, 420, read with Section 120-B IPC, are not substantiated by the facts, and no offence will be proven against the petitioners during the trial.



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4. I have heard learned counsel for the petitioners and have perused the relevant material placed on record.
5. At the stage of framing charges, the Court’s jurisdiction is limited to determining whether a *prima facie* case exists against the accused based on the evidence gathered during the investigation. The Court is required to form only a preliminary opinion at this stage, relying on the material accompanying the challan, without engaging in a detailed evaluation of the evidence. As per settled law, the accused are not permitted to present any documents or materials in their defence during the stage of framing charges.
6. In the present case, the petitioners have raised several factual issues regarding the execution of the sale deed. However, such issues are outside the scope of consideration at this stage. These contentions can only be properly examined during the trial, when both parties will have the opportunity to present their respective evidence, which will be scrutinized and tested through cross-examination.
7. In view of the above, no ground is made out to accept the prayer of the petitioners and the petition is accordingly dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case

October 04, 2024
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(MANJARI NEHRU KAUL)
JUDGE

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