

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1713-2023

Date of Decision: 14.02.2025

Manjit Singh & Anr.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Prateek Sodhi, Advocate and
Mr. Aharjot Grewal, Advocate for the petitioners

Mr. Jaspal Singh Guru, AAG Punjab

Mr. JS Thind, Advocate for respondents No.2 & 3

Sandeep Moudgil, J. (Oral)

(1). This petition under Section 482 of CrPC has been filed by the petitioner seeking to set aside order dated 05.05.2017 (Annexure P10) vide which the petitioner has been summoned under Section 319 CrPC to face trial in FIR No.81 of 2015 under Sections 419/420/467/468/471/120-B IPC registered at Police Station Civil Lines, Amritsar as well as the order dated 20.07.2022 (Annexure P12) vide which the criminal revision preferred by the petitioner against order (Annexure P10) has also been dismissed.

(2). Counsel for the petitioners argued that the petitioners were maliciously and vexatiously implicated in the FIR by the complainant, who is a police officer at the time of registration. It was submitted that the property in question i.e. plot No.75, was mortgaged with Punjab and Sind Bank, with Manjit Singh, petitioner No.1, as guarantor. He paid Rs.6,29,566/- to the Bank on 05.3.2014 and subsequently filed a civil suit, which was decreed on 18.05.2015. The execution proceedings were also filed and the trial Court

directed for issuance of a sale certificate vide order dated 09.10.2017 and the decree was satisfied on 27.11.2017.

(3). Counsel argued that these facts were disregarded, leading to the petitioners' false and frivolous implication in the FIR. He further submitted that during the investigation, both petitioners were exonerated and listed in column No.2 of the challan. Relying on the Supreme Court's judgment in **Hardeep Singh vs. State of Punjab and others, (2014) 3 SCC 92**, it is contended that the Courts erred in not following the established legal principles, rendering the petitioners' summoning under Section 319 Cr.P.C. legally unsustainable.

(4). It is averred that the trial court erred in summoning the petitioners on the basis of prima facie case whereas it is settled position of law that a person cannot be ordered to be summoned only when the trial court finds that the evidence on record is such that would reasonably lead to conviction of a person sought to be summoned and in the present case, there is absolutely no documentary evidence to even remotely link the petitioners with the alleged transaction, for, the only allegation by respondent No.2 that Harpreet Singh, while impersonating himself as Satpal, executed sale deed dated 22.01.2013 in favour of respondent No.3 who is wife of respondent No.2 and as such, no role has been attributed to the petitioners as far as execution of sale deed is concerned. Reliance has been placed on **Sarabjit Singh & Anr. Vs. State of Punjab & Anr. 2009 AIR SC 2792**.

(5). On the other hand, learned State counsel along with counsel for respondents No.2&3 contend that mutation No.60472 was tampered by Sukhjinder Singh @ Rimpay Patwari and the mutation sanctioned later on was

tampered by introducing the words 'Na Parvaan', in connivance with Kanungo Resham Singh, Rajnish Kumar, Sanjiv Kumar and the shop which was given on rent by the complainant to Paramjit Kaur w/o Vijay Singh, who in connivance with petitioner No.1 and Gurjit Kaur, got delivered its possession to their relative Harjinder Singh (petitioner No.2) and his family members after getting Rs.31,000/- as such, before the courts below, there was ample evidence on the basis of which the petitioners have been rightly summoned under Section 319 CrPC.

(6). Heard learned counsel for the parties.

(7). The Supreme Court in its various pronouncements discussed the nature and scope of power of this Court under Section 482 CrPC and held that the High Court can exercise the inherent powers provided under Section 482 CrPC only to prevent the misuse of the process of any Court or to secure the ends of justice and that such power are exercisable only on non-availability of any other specific remedy under the Code. It has also been established that no interference is required with the order passed by the Magistrate under Section 190 of Code, regarding taking the cognizance of the offence or under Section 319 CrPC regarding the summoning of accused, if prima-facie offence is made out from consideration of material available on record and as such merits of the case or truthfulness of the material on record cannot be adjudged at a nascent stage. Reference can be made to (i) **Sri R.P. Kapoor and Ors. vs. The State of Punjab AIR 1960 SC 866** (ii) **Madhu Limaye vs. The State of Maharashtra AIR 1978 SC 447**, (iii) **State of Harayana & Ors. vs. Bhajan Lal and Ors. 1992 Supp. (1) SCC 335.**

(8). The parameters of jurisdiction of the High Court in exercising its jurisdiction under section 482 CrPC is now well settled. Although it is of wide amplitude, a great deal of caution is also required in its exercise. What is required is application of the well known legal principles involved in the matter.

(9). In the present case, there are allegations that PW1 Balbir Singh testified to have rented a house to Paramjit Kaur w/o Vijay who in connivance with the petitioners got delivered the possession to their relative. On the other hand, the petitioners pleaded that they are neither party to the alleged Sale deed nor are they attesting witness or have any connection with the alleged Sale Deed and also highlighted that PW1 Balbir himself purchased the property after verifying all the documents to be true and contradictorily asserted that the alleged Sale Deed is result of forgery, impersonation and fraud. There are counter allegations by the petitioners indeed that Balbir Singh himself seems to be a party to the alleged forgery as he signed the Sale Deed as attesting witness and at that time, he was fully aware of the fact that Satpal Singh is not the owner of the property and earlier he got an agreement to sell dated 01.11.2012 of the said property executed from one Satpal Singh in his favour for an amount of Rs.6 lacs knowingly fully well that Satpal Singh is not actual owner of the property which he has sold to Harpreet Singh vide valid and legal Sale Deed.

(10). Ordinarily, a defence of an accused although appears to be plausible cannot be taken into consideration for exercise of the jurisdiction under Section 482 CrPC moreso when disputed questions of fact are involved. It, however, does not mean that documents of unimpeachable

character should not be taken into consideration at any cost for the purpose of finding out as to whether continuance of the criminal proceedings would amount to an abuse of process of court. This Court cannot travel beyond its jurisdiction to interfere with the proceeding which is otherwise genuine involving counter-claims and counter-allegations which can only be adjudicated on the basis of leading evidence. The courts cannot also lose sight of the fact that in certain matters, both civil proceedings and criminal proceedings would be maintainable.

(11). From perusal of the material on record and looking into the facts and circumstances of the case, it cannot be said at this stage that no cognizable offence is made out against the petitioners. All the submissions made by counsel for the petitioners relate to disputed questions of fact which cannot be adjudged at this stage by this Court. At this stage, only prima-facie case is to be seen in the light of law laid down by the Apex Court in above mentioned cases.

(12). Accordingly, in view of the above discussion, the prayer for quashing the orders passed by the courts below in summoning the petitioners under Section 319 CrPC cannot be acceded.

(13). Dismissed.

14.02.2025
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No