



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

CRM-M-9886-2025
Date of decision: 20.02.2025

KAPIL AGARWAL

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ziaul Mustarfa, Advocate (through V.C.)
 & Mr. Chander Mohan Rathee, Advocate
 for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.066 dated 06.02.2025 registered under Sections 406/420 IPC at Police Station Nissing, Karnal.

2. Learned counsel for the petitioner *inter alia* contends that the dispute between the parties is only on account of business transactions. He submits that the petitioner was engaged in business with the complainant through brokers namely Sandeep and Vikas and they are partners since year 2021. Further, the complainant-respondent No.2 is relative of these aforementioned two brokers and petitioner has conducted the business with these two aforementioned brokers to the tune of Rs.70,26,458/- during the period of 01.03.2024 to 18.04.2024. It is further contended that the dispute between the parties is purely of civil nature and the petitioner has already issued a legal notice (Annexure P-2) to broker-Sandeep. He further contends



that offences under Sections 406/420 IPC cannot be invoked in the same transaction in view of the ratio of law laid down by the Apex Court in '**Delhi Race Club and others vs. State of Uttar Pradesh and another**' 2024(4) RCR (Criminal) 173. Learned counsel submits that the petitioner is ready and willing to supply the transaction details to respondent No.2-complainant, to recover the amount of Rs.13,00,000/- from Sandeep and Vikas. Lastly, it has been contended that respondent No.2-complainant has not disclosed the entire chain of events and practices in his business dealings. There are material suppressions and malicious concealments of vital facts in the FIR (*supra*), which clearly proves that with an oblique motive, the present civil dispute has been given a criminal colour and at the most, it is a case of breach of contract arising out of business transactions between the parties. Furthermore, there is an inordinate delay of 7 to 8 months in registration of the FIR (*supra*).

3. *Per contra*, learned State counsel opposes the prayer of the petitioner on the ground that the present petition is pre-mature at this stage. The FIR (*supra*) was registered only on 06.02.2025. The probable defence of the petitioner cannot be looked into at this stage and the investigating agency cannot be suffocated at the threshold by exercising power under Section 482 Cr.P.C. The intention to cheat at the very inception is writ large and it is not a case of simple civil dispute arising out of the business transactions.

4. At this stage, learned counsel for the petitioner wishes to withdraw the present petition and submits that he would be satisfied in case, a direction be issued to the investigating agency to consider all the averments



CRM-M-9886-2025

-3-

made by the petitioner in the present petition before the preparation of the final report under Section 193 BNSS and seeks liberty to file a fresh petition, in case, the final report is filed against the petitioner.

5. The matter is taken up for final disposal with the consent of the parties. Learned State counsel, who appeared on advance notice, submits that it would be in the interest of justice, equity and fairplay if the material placed on record by the petitioner in the present petition as well as his stand is considered by the Investigating officer before filing of the final report under Section 193 BNSS.

6. Keeping in view the aforesaid facts and circumstances, the present petition is disposed of with a direction to the Investigating Officer to consider all the averments, made in the present petition before preparing a final report under Section 193 BNSS.

7. It is clarified that in case a final report under Section 193 BNSS is filed against the petitioner, the petitioner would be at liberty to file a fresh petition to challenge the FIR(supra) as well as such final report under Section 193 BNSS.

February 20, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |