



CRM-M-17524-2015 (O&M) -1-

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

CRM-M-17524-2015 (O&M)

Reserved On: 14.05.2025

Pronounced on: 26.05.2025

Mohinder Singh

.....Petitioner

Versus

State of U.T. Chandigarh and Another.

.....Respondents

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Dinesh Singh Rawat, Advocate
for the petitioner.

Mr. Rahil Mahajan, Addl. P.P. U.T., Chandigarh.

None for respondent No.2.

H.S. GREWAL J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 255 dated 05.08.2013 under Section 420 IPC registered at Police Station Sector 26 Chandigarh.

2. The allegations against the petitioner is that petitioner had taken a loan of Rs.5.50 lakhs from the complainant and to return the said amount, he had issued a cheque which was earlier dishonoured. Thereafter, the present FIR has been registered alleging that an agreement to sell dated 25.11.1999 was executed between the complainant and the petitioner and as per the agreement to sell, the complainant received Rs.one lakh as earnest money which is now being projected by the complainant as an amount to be returned by the petitioner to the complainant. In the year 1999, the petitioner asked the complainant to return his cheque, the complainant told the petitioner that the surety cheque was misplaced.



It is alleged that a false case has been registered by the complainant since he has retired from the Police Department of Chandigarh and no offence under Section 420 is made out against the petitioner. After registration of FIR, the case was enquired into and during enquiry, statement of the complainant was recorded wherein he has stated that he had an agreement with the petitioner in the year 1999 to sell his agricultural land at his Village for Rs.5.50 lakhs. He further issued a cheque drawn on Canara Bank, Panchkula and when he deposited the said cheque in Bank, he found that there was no account of the petitioner. However, the petitioner has stated that he entered into an agreement to sell agricultural land with one Shisha Singh and as earnest money, he gave a blank cheque on 25.11.1999 drawn on Canara Bank, Panchkula against an amount of Rs.1 lakh and it had come to notice that the said land was disputed. Later on, after the dispute and after full and final payment, the said land of 12 kanals was got registered in his name and his wife's name but Shisha Singh has not returned the said cheque. He further stated that no amount *qua* Shisha Singh is pending with him. From the enquiry, it was found that as per agreement, a blank cheque was given to the complainant-Shisha Singh against the earnest money of Rs.one lakh and after full and final payment, Shisha Singh got the registry in the name of his wife in the year 2000. The allegations levelled by the complainant could not be established since no criminal offence was made out and vide Beat Incharge, Police Station, Sector-17, U.T. Chandigarh vide enquiry dated 06.01.2012 recommended that the complaint be filed.

3. After perusing the file and going through the copy of the challan, it transpires that the matter in hand is purely of civil nature. Criminal proceedings cannot be made a tool for effecting recovery or to settle a civil dispute which is



clear from the reading of the FIR that there is no criminal case made out and criminal proceedings have been initiated to settle a civil score.

4. Hon'ble the Supreme Court in case "**Syed Yaseer Ibrahim Vs. State of Uttar Pradesh**" : **Law Finder Doc Id #1959914**, held as under:

"8 Both the FIR and the charge-sheet, which has been submitted after investigation, would leave no manner of doubt that there are rival contentions of the appellant, on the one hand, and the second respondent, who is the complainant, on the other, which form the subject of a pending suit. The contesting parties lay a claim to the immovable property, which is in dispute. The appellant founded his claim on the strength of an alleged deed of gift. On the other hand, the second respondent has claimed on the basis of a Will alleged to have been executed in his favour. The second respondent has instituted a suit for declaration and possession which is pending. The suit was dismissed in default on 13 October 2014. The sale deed was executed by the appellant on 24 November 2014. The suit has been restored to file on 21 April 2016. Each of the rival claims would be tested in the course of the evidence adduced at the trial of the suit. Mr Sanjay Singh submitted that since the sale took place during the pendency of the suit, doctrine of lis pendens will apply. This itself is an indicator of the position that it is essentially a dispute of a civil nature. The execution of a sale deed, during the pendency of the suit, may attract the doctrine of lis pendens , but, from reading the charge-sheet as it stands, it is evident that there is no element of criminality which can stand attracted in a matter which essentially involves a civil dispute between the appellant and the second respondent.

9. Insofar as the appellant is concerned, none of the ingredients of the offence punishable under Section 420 of the IPC have been found to exist after the investigation was complete. Neither the FIR nor the charge-sheet contain any reference to the essential requirements underlying Section 420. In this backdrop, the



continuation of the prosecution against the appellant would amount to an abuse of the process where a civil dispute is sought to be given the colour of a criminal wrong doing.”

5. Further, the Apex Court in case “**C. Subbaiah @ Kadambur Jayaraj Vs. Superintendent of Police: Law Finder Doc Id # 2579783**”, has held as under:

“40. The complainant has clearly alleged that the accused caused him monetary loss because the appropriate share of profits was not passed on to him after some plots from the entire chunk had been sold. This Court in the case of Sarabjit Kaur v. State of Punjab and Anr 2023 SCC OnLine SC 201 observed that:-

"A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up the promise will not be enough to initiate criminal proceedings".

41. Similarly, in the case of Vijay Kumar Ghal v. State of W.B. (2022) 7 SCC 124, this Court while tracing the earlier decisions on the subject observed as under:

24. This Court in G. Sagar Suri v. State of U.P. [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636] observed that it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature.

25. This Court has time and again cautioned about converting purely civil disputes into criminal cases. This Court in Indian Oil Corpn. [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736] noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The Court further observed that: (Indian Oil Corpn. case [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736]

"13.... Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."



42. Thus, we are of the firm view that the necessary ingredients of the offences punishable under Section 406 and Section 420 IPC are not made out against the accused appellants from the admitted allegations set out in the complaint and the charge sheet. It cannot be doubted that a dispute which is purely civil in nature has been given a colour of criminal prosecution alleging fraud and criminal breach of trust by misusing the tool of criminal law.”

6. In view of the aforesaid judgments, the Courts have time and again deprecated the initiation of false criminal proceedings in cases having the elements of a civil dispute. Therefore, it becomes essential to not let such cases act as a bargaining weapon to attain a speedy settlement or to get the desired results. Therefore, in the view of the judgements rendered by the Hon’ble Apex court, it has clearly been observed that civil disputes given the colour of criminal offence should be quashed.

7. In the light of above, the present petition is allowed and FIR No. 255 dated 05.08.2013 under Section 420 IPC registered at Police Station Sector 26 Chandigarh, is hereby quashed qua the petitioner.

26.05.2025

Sonia Puri

**(H.S. GREWAL)
JUDGE**

<i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
<i>Whether reportable</i>	:	<i>Yes / No</i>