



CRM-M-58916 -2023 (O&M) and two more cases

-1-

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

Date of decision: 25.02.2025

1. CRM-M-58916 -2023 (O&M)

Ranjodh Singh and another

... Petitioners

Versus

State of Punjab and another

...Respondents

2. CRM-M-4640 -2024 (O&M)

Hardev Singh

... Petitioner

Versus

State of Punjab and another

...Respondents

3. CRM-M-16911 -2024 (O&M)

Amanpreet Kaur

... Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Singh Jawandha, Advocate
for the petitioner(s).

Mr. Rishabh Singla, AAG Punjab.

Mr. Dhiraj Jindal, Advocate for
respondent(s) No. 2 in all petitions.

HARPREET SINGH BRAR, J. (ORAL)

1. This order of mine shall decide all the abovementioned cases as they arise out of the similar factual matrix and pray for the same relief.

**CRM-M-58916 -2023 (O&M) and two more cases****-2-**

However, for the sake of brevity, the facts have been taken from CRM-M-58916 -2023 (O&M) for adjudication of the cases mentioned above.

2. The petitioners have approached this Court by way of filing the present petition under Section 482 Code of Criminal Procedure, 1973 (hereinafter Cr.P.C., for brevity) for quashing of the impugned FIR bearing no.36 dated 03.08.2023 under Section 420, 120-B of Indian Penal Code, 1860 (hereinafter IPC) registered at Police Station Dharamgarh, District Sangrur (Annexure P-1), and the Final Report under section 173 Cr.P.C. (Annexure P-5) as well as all subsequent proceedings arising therefrom.

3. Succinctly, the facts of the case are that the marriage was solemnized between Kamalpreet Singh, son of the respondent no. 2 and Amanpreet Kaur on 29.12.2019 and subsequently, the couple stayed at their matrimonial house situated in village Satoj, Tehsil Sunam, District Sangrur. Thereafter, Amanpreet Kaur went to Canada upon receiving her student visa on 23.08.2020. Subsequently, Amanpreet Kaur sent sponsorship to her husband Kamalpreet Singh in pursuance of which the necessary documents were submitted by the latter before the Canadian High Commission along with the statement of purpose of visiting (Annexure P-3). Accordingly, Kamalpreet Singh went to Canada on 04.04.2022 upon receiving his work visa. However, later on, the relations between the couple soured and it has been alleged that petitioner(s) had no intention to fulfil their obligations from the very beginning and thus, cheated the complainant by extracting money from him under false pretext. Further, the allegations against the petitioner(s) are that they deceived

**CRM-M-58916 -2023 (O&M) and two more cases****-3-**

the respondent no. 2 and his son since the petitioners are now demanding ransom in order to extend his work permit.

4. The learned counsel for the petitioner(s) *inter alia* contends that Amanpreet Kaur was in constant touch with Kamalpreet Singh and her in-laws and there was no intention to deceive on her part which is manifestly clear from the fact that a sponsorship was sent by her for Kamalpreet Singh to come and stay with her and in pursuance of which he went to Canada on work visa (supra). On being harassed by the respondent no. 2 and police personnel and raising a demand of Rs. 35,00,000/- a **CRWP-7441-2023** titled as **Hardev Singh and others vs. State of Punjab and others** (Annexure P-4) was filed for protection of life and liberty wherein notice of motion was issued by the Co-ordinate Bench of this Court on 28.07.2023. Thereafter, the FIR (supra) was registered on 03.08.2023 as a counter blast to CRWP (supra). Further it is argued that a perusal of the police report under Section 173 Cr.P.C. (Annexure P-5), shows that *prima facie* no offence under Sections 420, 120-B IPC is made out against the petitioners as it is clearly visible that Kamalpreet Singh went to Canada on work visa which was procured with the help of Amanpreet Kaur. Therefore, Amanpreet Kaur along with other accused duly fulfilled the promises made to respondent no. 2 at the time of marriage. A mere demand of money by Amanpreet Kaur from her husband Kamalpreet Singh does not constitute an offence under Section 420 IPC as it falls under the matrimonial obligations of the husband to take care of his wife and also to bear her expenses. Moreover, necessary ingredients required to constitute an offence under section 420 IPC are absent. It is further submitted that it was the constant

**CRM-M-58916 -2023 (O&M) and two more cases****-4-**

harassment meted out to Amanpreet Kaur by her husband Kamalpreet Singh on account of bringing more dowry which lead to the matrimonial discord and the present FIR has been lodged by them only to save themselves from criminal prosecution.

5. *Per contra* the learned counsel for the respondent no. 2 contends that the entire expenditure of Amanpreet Kaur including her visa and college fees was incurred by respondent no. 2. However, upon arrival of Kamalpreet Singh in Canada, Amanpreet Kaur did not reside with him. Further, the work visa of the Kamalpreet Singh expired in September 2022 and on request for extension of work visa, an illegal demand of 16,000 dollars as college fees was made by Amanpreet Kaur. The learned counsel for respondent no. 2 further submits that Kamalpreet Singh is undergoing immense psychological stress and is in constant trepidation of arrest and deportation. It is further contended that there was a sudden change in the behaviour of Amanpreet Kaur after receiving her study visa and her subsequent departure to Canada. She started having arguments with Kamalpreet Singh on trivial matters in order to ultimately extort a handsome amount out of him.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court would like to examine the necessary ingredients constituting the offence as defined under Section 420 IPC:

Section 420: Cheating and dishonestly inducing delivery of property.

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter



CRM-M-58916 -2023 (O&M) and two more cases

-5-

or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

To attract the offence under Section 420 of IPC, it is necessary that the FIR should make out a case of “intentional inducement”, “dishonesty” or “fraudulence”. It is crystal clear that for the offence of ‘cheating’, there should not only be cheating, but as a consequence of such cheating, the accused should also have dishonestly induced the person deceived to deliver any property to a person. In the instant case, neither the FIR nor the final report under section 173 Cr.P.C. contain a whisper with respect to any inducement, fraud or dishonesty made by the petitioner(s). Admittedly, in the present case no such deceitful act was adopted as the son of respondent no. 2 landed in Canada on procuring the sponsorship from his wife Amanpreet Kaur. The only apparent reason to lodge the FIR (supra) under sections 420,120-B of IPC is to wreak vengeance due to ongoing matrimonial discord.

7. Pertinently, A two Judge bench of the Hon’ble Supreme Court in ***Mariam Fasihuddin & Another vs. State by Adugodi Police Station and another, 2024 SCC Online SC 58***, speaking through Justice Surya Kant, made the following observations:

“11. It is thus paramount that in order to attract the provisions of Section 420 IPC, the prosecution has to not only prove that the accused has cheated someone but also that by doing so, he has dishonestly induced the person who is cheated to deliver property. There are, thus, three components of this offence, i.e., (i) the deception of any person, (ii) fraudulently or dishonestly

**CRM-M-58916 -2023 (O&M) and two more cases****-6-**

inducing that person to deliver any property to any person, and (iii) mens rea or dishonest intention of the accused at the time of making the inducement. There is no gain said that for the offence of cheating, fraudulent and dishonest deliver any property to any person, and dishonest intention must exist from the inception when the promise or representation was made.” (emphasis added)

8. It is settled law that the recourse to inherent power under Section 482 Cr.P.C. can be taken to ensure that criminal proceedings are not allowed to be used as weapons of harassment. Therefore, in the considered opinion of this Court, the criminal proceedings launched by respondent no. 2 cannot be sustained in the facts and circumstances of the present case. Especially, after relationships turned sour, such an allegation was made to drag the petitioners in the juggernaut of stringent criminal process. Reliance in this regard can be placed on case wherein a two Judge bench of Hon'ble Supreme Court in **Vesa Holdings P. Ltd. v. State of Kerala (2015) 8 SCC 293**. Speaking through Justice C. Nagappa, it was observed as follows:

“ 9. It is true that a given set of facts may make out a civil wrong as also a criminal offence and only because a civil remedy may be available to the complainant that itself cannot be a ground to quash a criminal proceeding. The real test is whether the allegations in the complaint disclose the criminal offence of cheating or not. In the present case there is nothing to show that at the very inception there was any intention on behalf of the accused persons to cheat which is a condition precedent for an offence under Section 420 I.P.C. In our view the complaint does not disclose any criminal offence at all. Criminal proceedings should not be encouraged when it is found to be malafide or otherwise an

**CRM-M-58916 -2023 (O&M) and two more cases****-7-**

abuse of the process of the court. Superior courts while exercising this power should also strive to serve the ends of justice. In our opinion, in view of these facts allowing the police investigation to continue would amount to an abuse of the process of court

9. Similarly, a two Judge bench of the Hon'ble Supreme Court in ***M/s Indian Oil Corporation v. M/s NEPC India (2006) 6 SCC 736***, speaking through Justice R.V. Raveendran, observed as follows:

*“10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. **Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families.** There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. 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.”*

10. Further, when proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance as in the case in hand where FIR(supra) was registered after filing of CRWP (supra) by petitioner(s), then in such circumstances the Court owes a duty to look into the FIR with ample caution and a little more closely.

**CRM-M-58916 -2023 (O&M) and two more cases****-8-**

Reliance in this regard can be placed on the case of a two-Judge Bench of the Hon'ble Supreme Court in ***Mahmood Ali v. State of U.P. (SC), 2023 CriLJ 3896*** speaking through Justice J.B. Pardiwala, held that:

“while invoking the inherent power under Section 482 Crpc for quashing the FIR or criminal proceedings whereby the proceedings initiated are frivolous or instituted with the ulterior motive for wreaking vengeance, in such cases Court owes a duty to minutely and cautiously look into the contents of FIR. Once the complainant decides to wreak personal vengeance, the complainant would ensure the averments made in the FIR disclose alleged offence and there is no room for any discrepancies. Therefore, apart from looking into the averments made in the FIR, the Court owes a duty to look into other emerging circumstances and material collected in the investigation leading to the initiation/registration of the case”.

Further, A two-Judge Bench of Hon'ble Supreme Court in the case of ***Kishan Singh dead through LR's v. Gurpal Singh, 2010 (3) SCC (CrI) 1091***, speaking through Justice B.S. Chauhan, held that:

For quashing any proceedings, the Court ought to carefully scrutinize the facts before it as the frustrated litigant who failed before the civil court may initiate the criminal proceedings with malafide intention merely to wreak personal vengeance. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by invoking the jurisdiction of the criminal court. In such a case, where an FIR is lodged clearly with ulterior motive to spite the other party because of a personal rancour and to enmesh the other party in long and arduous

**CRM-M-58916 -2023 (O&M) and two more cases****-9-**

criminal proceedings, the court may take a view that it amounts to an abuse of the process of law.

11. A two Judge bench of the Hon'ble Supreme Court in ***Gulam Mustafa v. State of Karnataka and Another 2023(3) RCR (Criminal) 182***, speaking through Justice Ahsanuddin Amanullah, held as follows:

"27. This Court, in S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 24, held:

"... whereas while exercising power under section 482 CrPC, 1973 the High Court has to look at the object and purpose for which such power is conferred on it under the said provision. Exercise of inherent power is available to the High Court to give effect to any order under CrPC, or to prevent abuse of the process of any court or otherwise to secure the ends of justice. This being the position, exercise of power under section 482 CrPC, 1973 should be consistent with the scope and ambit of the same in the light of the decisions aforementioned. In appropriate cases, to prevent judicial process from being an instrument of oppression or harassment in the hands of frustrated or vindictive litigants, exercise of inherent power is not only desirable but necessary also, so that the judicial forum of court may not be allowed to be utilized for any oblique motive. When a person approaches the High Court under section 482 CrPC, 1973 to quash the very issue of process, the High Court on the facts and circumstances of a case has to exercise the powers with circumspection as stated above to really serve the purpose and object for which they are conferred."(emphasis supplied)

12. One of the crucial ingredients to ascertain whether initiation of criminal proceedings in a cheating case is merited is to see whether a

**CRM-M-58916 -2023 (O&M) and two more cases****-10-**

culpable intention can be attributed to the accused since the very beginning. Admittedly, there is nothing on record to show that the petitioner(s) had an intention to deceive since the inception. In fact, on the contrary, the son of respondent no. 2, namely, Kamalpreet Singh received his work visa solely because of the sponsorship offered by Amanpreet Kaur. Whatever dispute arose between them was after they got together in Canada. Additionally, after closely scrutinizing the record of the case and given the estranged relationship between the parties arising out of matrimonial dispute, the offence of section 420 of IPC cannot be said to have been made out qua the petitioner(s).

13. On the touchstone of the law discussed here-in-above, all the present petitions are allowed and FIR No. 36 dated 03.08.2023 under Sections 420, 120-B of IPC registered at Police Station Dharamgarh, District Sangrur (Annexure P-1) and police report under section 173 Cr.P.C. (Annexure P-5) as well as all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

15. A copy of this order be placed on the files of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

25.02.2025
Ajay Goswami

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