

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-65150-2024

Date of Decision: 15.01.2025

Neeraj Kumar

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Karanjeet Singh Brar, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG Punjab

Sandeep Moudgil, J. (Oral)

(1). This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been filed by the petitioner seeking a direction to the respondents to club all the FIRs for further proceedings (investigation/trial) pending against him in various districts of the State of Punjab. Further prayer is to constitute a Special Investigation Team to conduct thorough and impartial investigation into the FIRs lodged against the petitioner.

(2). Briefly stated that the petitioner established a company namely, Nature Heights Infra Ltd. in 2011 as a subsidiary of the Natureway Group and to facilitate sale and purchase of various real estate projects, the petitioner opened multiple branches in various cities in Punjab which was being managed independently for providing potential investors with projects-related information and also engage numerous investors in sale and purchase of plots, shops and showrooms etc. at competitive rates. Allegedly, due to political vendetta and economic setbacks faced by the petitioner in 2014, there was delay in construction and as such, he could not complete the registration

process of the properties as promised to the customers. As a result of which, the petitioner was compelled to shut down its offices in various cities leading to widespread concern among his investors and the growing belief among the customers that the petitioner had indulged in fraudulent practices leading to registration of as many as 106 FIRs across various districts of Punjab as tabulated in para 8 of the petition. Thus, the petitioner has prayed for a direction for clubbing of these criminal cases for a thorough and cohesive investigation.

(3). Learned counsel for the petitioner contends that the petitioner is facing prosecution in hundreds of cases in various districts of Punjab which necessitates frequent transfers between different jails, police stations and courts and this procedural shuffling does not contribute meaningfully to the investigation and results in significant delays obstructing his right to free and fair trial as guaranteed under Article 21 of the Constitution.

(4). It is urged that the some of the complainants with pending FIRs filed writ petition i.e. CWP-16106-2023, which is still pending, wherein the petitioner gave an affidavit dated 23.06.2023 (Annexure P2) to the investors with an assurance to return the amount of the investors by highlighting that as against the company assets worth Rs.200 crores, his liability stands to the tune of Rs.51.11 crores only, and as such the aggrieved customers/investors are on the safe side as the due amount can be recovered from the assets attached to the tune of Rs.46.26 crores.

(5). Further, it is has been pleaded that a Special Investigation Team be constituted which may be tasked for conducting a thorough and impartial investigation into numerous FIRs registered against the petitioner and that

apart, the scattered nature of the FIRs and complaints across various courts and tribunals, have led to significant inefficiencies and prolonged delays in the resolution of the dispute and therefore all the FIRs need to be clubbed into a single proceeding to facilitate cohesive investigation and streamlining of judicial process which will indeed be time saving and cost effective.

(6). Another argument raised is that all the pending FIRs against the petitioner involve allegations of breach of contract which fundamentally pertain to civil matters rather than criminal offence inasmuch as these allegations reflect disputes arising from contractual agreements for which appropriate recourse would be through civil proceedings and the present proceedings are nothing but an attempt to arm-twist and harass the petitioner. He asserts that a representation dated 22.08.2024 (Annexure P3) has also been made to DGP, Punjab to consolidate all the pending FIRs against the petitioner but its response is still awaited.

(7). Learned counsel for the petitioner then placed heavy reliance on **Vikram Singh v. State of Rajasthan, 2024 SCC OnLine Raj 2787** wherein, Rajasthan High Court, while taking into account the fact that the writ-petitioner had sought consolidation of trials pending against him for offence of cheating, misappropriation of property and criminal conspiracy and as such, identical 259 FIRs against him were registered at different places across Rajasthan relating to same cause of action and nature of transaction, had ordered for clubbing of all cases in some groups based on geographical status of their lodging for achieving purpose of a speedy and fair trial and for securing the ends of justice. He urged that every case of cheating and inducement of an investor constituted the "same transaction", when such

transactions are a sub-specie of a single specie of transaction - i.e. of a single conspiracy.

(8). Notice of motion.

(9). On the asking of the Court, Mr. Jaspal Singh Guru, AAG Punjab accepts notice. He opposed the plea raised in the petition, but at the same time does not dispute or refute the fact and submission that more than 100 FIRs are lodged against the petitioner. He submits that the company of the petitioner had promised to give possession of the property on payment of certain instalments but neither any execution of registry took place nor he returned the amount along with interest as per the terms and conditions of the agreement. These acts of fraud and cheating with hundreds of investors constituted separate and distinct offences, thereby necessitating the registration of separate FIRs and as such each agreement between a victim and petitioner shall have to be treated as a separate transaction.

(10). Heard learned counsel for the parties.

(11). Before delving into the merits of the case, it would be apposite to refer to Section 218 CrPC, according to which generally, each distinct offence for which an accused person is charged with should have its own separate charge and each of these charges should be tried individually. This means that each offence is to be considered and tried separately as such.

(12). Further, Section 220 CrPC, on the other hand, provides that a person can be charged and tried for multiple offences in a single trial if they are connected to the same transaction. Meaning thereby, this provision deals with a situation where one series of acts is connected together to form the same transaction, and in that series of acts which are connected together,

more offences than one are committed by the same person. In that situation, he may be charged with and tried at one trial for every such offence. Sub-Section (2) of Section 220 makes it clear that if a person charged with one or more offences of criminal breach of trust, or dishonest misappropriation of property is also accused of committing - for the purpose of facilitating or concealing the commission of the offences aforesaid, the offence of falsification of accounts, he may be charged with and tried at one trial for every such offence. Thus, at the same trial, apart from the offence of criminal breach of trust or dishonest misappropriation of property, he may be tried for the offence of falsification of accounts for the purpose of facilitating or concealing the commission of the primary offence of criminal breach of trust, or dishonest misappropriation of property. Section 220 CrPC reads as under:-

“220. Trial for more than one offence.-(1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub- section (2) of [section 212](#) or in sub- section (1) of [section 219](#), is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at

one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, or such acts.

(5) Nothing contained in this section shall affect [section 71](#) of the Indian Penal Code (45 of 1860).”

(13). The question that arises for consideration is whether in a case of fraud and cheating with large number of investors in pursuance to a criminal conspiracy, each FIR lodged by an investor against the builder, namely, the petitioner constitutes a separate and individual transaction or all such transactions can be amalgamated and clubbed into a single FIR by showing one investor as complainant and others as witnesses?

(14). ***State of Andhra Pradesh v Cheemalapati Ganeswara Rao, AIR 1963 SC 1850***, was case where the accused withdrew huge amounts from different treasuries at different time span between 1990-96 by submitting fake allotment letters and withdrawal at different places. The Supreme Court pondered over the issue whether the proximity of time, place, motive and action of multiple offences committed by an accused amounts to be considered as ‘single conspiracy’ and held as under:-

“There was no continuity of action in the cases at hand, and there was no proximity of time, place, money etc. ...It may be possible that modus operandi of the accused might have been the same for withdrawing the money from the government treasuries under fake allotment letters but the withdrawal was made apparently at different places and at different point of time. Same motive will not prove that such conspiracies are a part of even bigger conspiracies.”

(15). Issues identical to the present case, came up for consideration before the Andhra Pradesh High Court in ***K. Manoj Reddy v. Commissioner of Police, 2007 SCC OnLine AP 963***, which revolved around the legal implications of separate FIRs filed against the accused therein for cheating

multiple investors since the accused-petitioner had accepted initial deposits and subsequent installments from various investors but failed to fulfill contractual obligations by not registering plots in their names which led to registration of multiple FIRs against him for cheating.

(16). In its quest to answer the issue as to whether separate FIRs registered against the accused person for cheating are legally tenable, the High Court of Andhra Pradesh at Hyderabad, held that “*Where financial scams have been committed in the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, will be different and distinct..*” and “*...that each and every written complaint of a subscriber constitutes an offence*”. The relevant extract of the said judgment reads as under:-

“12. In a case of this nature where financial scams have been committed in the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, will be different and distinct. Therefore, I am of the opinion that each and every written complaint of a subscriber constitutes an offence.

13. Under Section 219 of Code of Criminal Procedure, when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

14. Therefore, after completing investigation and after filing charge-sheet, three cases can be clubbed together and tried under Section 219 of the Criminal Procedure Code, but it does not mean that all the crimes in question, can be construed as one offence by registering one comprehensive crime.

15. The learned counsel appearing for the petitioner submits that several cases have been registered and as and when he is getting bail, he is being arrested in other offences and, therefore, it amounts to deprivation of his rights guaranteed under Articles 14 and 21 of the Constitution of India.

16. I am unable to accept the said contention as each and every crime constitutes an offence, though the nature of the crime is similar in nature. Article 21 of the Constitution of India postulates that no person shall be deprived of his personal liberty except according to the procedure established by law.

17. In the above facts and circumstances of the case, I am of the opinion that each and every complaint of a subscriber constitutes an offence and as such, it cannot be said that there is infraction or infringement of right guaranteed under Article 21 of the Constitution of India.”

(17). It thus culls out that separate trials for each FIR are justified when different offences arise from a continuing conspiracy, as per Section 212(2) of the CrPC. The existence of a conspiracy that results in various offences allows for distinct punishments for separate acts committed over time, thus negating claims of double jeopardy, for, it is within the judicial discretion to decide on the joint or separate trials based on the specifics of each case.

(18). Each offence is a distinct one, and cannot be regarded as constituting a single series of acts/transaction and the principle that financial scams involving multiple victims require careful consideration of the facts of the each case to uphold the rights of the accused and the integrity of the judicial process. The real test to determine whether multiple offences form the same transaction, or not, is whether there was continuity in action. In a case of inducement, allurement and cheating of large number of investors/depositors in pursuance to a criminal conspiracy, each deposit by an investor constitutes a separate and individual transaction. All such transactions cannot be amalgamated and clubbed into a single FIR by showing one investor as the complainant, and others as witnesses.

(19). The present case involves a financial scam and fraud, with serious allegations of misconduct and disputes related to investment schemes perpetrated by the petitioner and his company. The contents of the FIRs lodged against the petitioner across the State of Punjab suggests that during the course of selling the plots, all the particulars i.e., the date of purchase, mode of payment and the customers, are different and distinct. Each and every written complaint/FIR of an investor constitutes an offence of a different nature and different customer. Therefore, any clubbing of the FIRs would mean that a special jurisdiction would be conferred on one of the Courts where the FIRs are to be clubbed to try the offenses. That apart, the interest of the investors across the State is also a factor which must weigh in the mind of the Court so that no prejudice is caused to them.

(20). Moreover, if the trial of the criminal prosecution is unilaterally shifted from the place within which the plots were sold particularly for no fault of such investors and without giving them an opportunity of being heard, such action would drastically prejudice and detrimental to the interest of the first informant/investors.

(21). In view of the above discussion, there is no valid ground for this Court to club all the FIRs lodged against the petitioner at one place since the date of purchase, mode of payment and the customers, are different and distinct and constitute an offence of a different nature by a different customer.

(22). Dismissed.

15.01.2025
V.Vishal

(Sandeep Moudgil)
Judge

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

Yes/No
Yes/No