IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MMO No.388 of 2018 a/w
Cr.MMO No.442 of 2021
Reserved on : 06.10.2026
Decided on : 19.11.2026
Uploaded on : 19.11.2026

Cr.MMO No.388 of 2018

Khimi Ram ...Petitioner

Versus

State of H.P. & Ors. .....Respondents

Cr.MMO No.442 of 2021

Surender Kumar Walia ...Petitioner

Versus

State of H.P. & Ors. ....Respondents

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting? [1]

For the Petitioner(s) : Mr. R.K. Gautam, Senior Advocate with Mr. Jai Ram Sharma, Advocate, in both the petitions.

For the Respondent(s): Mr. Rajpal Thakur, Additional Advocate General, for respondent No.1/State.

Mr. Tarun K. Sharma, Advocate, for respondent No.2, in both the petitions.

Mr. Naveen K. Bhardwaj, Advocate, for respondent No.3, in both the petitions.

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[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Chirag Bhanu Singh, Judge

Both the petitions are taken up together for disposal as they pertain to the same FIR i.e. FIR No.289 of 2010, dated 27.10.2010, registered under Sections 420, 467, 468, 471 and 120 (B) of the Indian Penal Code, (hereinafter referred to as the 'IPC'), at Police Station Kullu, District Kullu H.P., as well as, subsequent proceedings, pending before the Court of learned Chief Judicial Magistrate, (L&S) at Kullu, qua him.

Case of the Petitioner-Khimi Ram in Cr.MMO No.388 of 2018

2. It is the case of the petitioner-Khimi Ram that he had executed an agreement with the respondent No.3-Prem Singh for the sale of land/house at Dhalpur for a sale consideration of Rs.23,00,000/- and in pursuance thereto, he had paid earnest money amounting to Rs.1,00,000/- The balance sale consideration of Rs.22,00,000/- was agreed to be paid by the petitioner at the time of execution and registration of the sale deed.

3. The petitioner had also simultaneously applied for grant of a house loan to the tune of Rs.18,50,000/- and paid

a margin money of Rs.3,50,000/- to the State Bank of India, Dhalpur Branch, Kullu. The bank had assured the petitioner that as and when the loan is sanctioned, he would be informed. Surprisingly, the bank without informing the petitioner, without his consent and without the sale deed having been registered and executed, the bank had paid an amount of Rs.22,00,000/- to respondent No.3-Prem Singh. The loan amount had been disbursed to the said respondent, in connivance with the officials of the bank.

4. Consequently, the petitioner was constrained to get the aforesaid FIR registered against respondent No.3-Prem Singh, Subhash Sharma and S.K. Walia, Manager of the State Bank of India, Branch Dhalpur, District Kullu, H.P., who had connived with each other and cheated the petitioner.

5. But interestingly, the police while presenting the charge sheet under Section 173 of Cr.P.C., has impleaded the petitioner along with respondent No.3-Prem Singh and S.K. Walia, as an accuseds and hence, the present petition.

6. It is thus averred by the petitioner that he was innocent and has been falsely implicated in the present

case. The petitioner after having been cheated by the respondent No.3-Prem Singh and the bank had approached the police, but, he himself has been implicated as an accused. There is no iota of evidence against the petitioner. The continuance of the proceedings thus is a cause of great injustice and harassment to the present petitioner. Over and apart the bank has also obtained an order for recovery of Rs.22,25,870.6 paisa along with 11.75% interest per annum jointly and severally against the petitioner and respondent No.3. He has thus been penalized for an amount which has never been paid to him by the bank.

7. The petitioner thus prays for quashing of the FIR qua him and the consequent proceedings pending before the Court of learned Chief Judicial Magistrate, (L&S) at Kullu.

Case of the petitioner Surender Kumar Walia in Cr.MMO No.442 of 2021

8. The petitioner-Surender Kumar Walia in Cr.MMO No.442 of 2021, the then PBD Manager of SBI Dhalpur, District Kullu, H.P., who is alleged to have prepared the loan case of Khimi Ram and had connived with the accused Prem Singh. The said petitioner is stated to have prepared all the

documents and sanctioned the loan case of Khimi Ram. He had also not informed the revenue department knowingly regarding the mortgage of the land despite of the written directions the then Chief Manager B.M. Anand.

9. As per the said petitioner though allegations against him in the FIR is that he had prepared all the documents of the loan case to Khimi Ram and did not timely inform the revenue department about the subsequent developments i.e. regarding sale and purchase of the land and mortgage process. However, per the petitioner the case loan has been sanctioned by the then Chief Manager B.M. Anand.

10. Further, per the petitioner the revenue agency had already been informed in January, 2009 and he had superannuated on 31.07.2009 and the FIR had been lodged on 27.10.2010. The petitioner had nothing to do with the case. It is further averred by the petitioner-S.K. Walia that the bankers cheque amounting to Rs.22,00,000/- was handed over to Khimi Ram who was to hand over the same at the time of registration of the sale deed. The petitioner has also placed on record the letter dated 25.08.2008

whereby bankers cheque had been purportedly handed over to Khimi Ram. The petitioner has also placed on record letter dated 23.08.2008 whereby the notice had been issued to Khimi Ram that he had failed to get the property mortgaged in favour of the bank as per the agreement. The petitioner has also placed on record a letter dated 30.01.2009 whereby the revenue authorities had been apprised about the creation of the equitable mortgage regarding the land bearing Khasra No.2875/2335/38/2 and Khata-Khatauni No.280/425 in Fati Dhalpur Kothi Maharaj.

11. The petitioner-Surender Kumar Walia also thus prayed for quashing of the FIR qua him and the consequent proceedings pending before the learned Chief Judicial Magistrate, (L&S) at Kullu.

12. Since the matter was to be heard along with Cr.MMO No.388 of 2018 and no formal reply has been filed in the present petition.

13. While contesting the petition, the respondent/ State, apart from denying the averments in the petition has averred that the petitioner-Khimi Ram's involvement in the conspiracy of procuring the house loan could not be denied

as he knew that the loan amount, which had been sanctioned in his name already stands transferred to respondent No.3-Prem Singh's account. He had the knowledge that the bank would recover the loan amount from him, still he kept mum because of a greed for getting money. Even after having been issued repeated reminders by the bank and a legal notice he did not reveal the matter to the police. It is however, admitted that the petitioner had lodged an FIR bearing No.289 of 2010, dated 27.10.2010, at Police Station Kullu, against Prem Singh, Subhash Sharma and S.K. Walia.

14. Further, per the respondent-State, it had surfaced in the investigation that the then Manager, State Bank of India, Dhalpur, S.K. Walia, had joined the bank in July, 2007 and retired on 31.07.2009 was also a conspirator in getting the loan sanctioned and had prepared all the documents of the loan case and he did not timely inform the revenue department, regarding mortgage of the land, despite written directions by the then Chief Manager, B.M. Anand and in the process the mortgage property had been sold by Prem Singh to one Roop Chand on 27.08.2008. The present

petitioner had conspired to make a loan case and thus cheated the bank. The petitioner had also approached the police after a long time, preparing a defence, when Prem Singh neither gave him money nor the land. The respondent/State thus prayed for the dismissal of the petition.

15. I have heard the learned counsel appearing for the parties and have gone through the record.

16. The recital of the FIR states that the petitioner Khimi Ram (Cr.MMO No.388 of 2018), who was in fact the complainant had got recorded his statement under Section 154 Cr.P.C. with the police that on 21.08.2008 he had entered into an agreement to sell with Prem Singh for a sale consideration of Rs.23,00,000/-. In the agreement, it was stated that he has paid an amount of Rs.1,00,000/- as earnest money to said Prem Singh. On 23.08.2008 he had been called to the State Bank Dhalpur by Prem Singh, Subhash Sharma and Surender Kumar Walia (Bank Manager) at about 3:15 PM. His signatures had been taken on different documents. He had been apprised that when the loan is ready he would be called. He had sought the

loan for the marriage of his son as he had borrowed money from different people. Later on neither he was given the land and the house nor the money. On 23.08.2008, the loan for an amount of Rs.18,15,000/- had been prepared in his name. He does not know which of the three people had deposited the earnest money of Rs.3,50,000/-, however, on 25.08.2008 an amount of Rs.22,00,000/- had been credited to the account of Prem Singh (respondent No.3) in the account bearing No.30423414714, dated 29.01.2009. He had received a notice from the State Bank of India in respect of the bank loan amount of Rs.18,50,000/-. The said amount had been fraudulently and falsely procured by the three i.e. Prem Singh, Subhash Sharma and Surender Kumar Walia.

17. However, at the time of filing of the charge sheet the police had even impleaded the complainant as the accused.

18. The premise on which the police had impleaded him as an accused is that the petitioners involvement in the conspiracy of procuring the house loan cannot be denied as he knew that the loan amount has been sanctioned in his

name and transferred to Prem Singh. He had the knowledge that the bank would recover the loan amount from him. Khimi Ram kept mum on the matter in a greed for getting money. Even after receiving repeated reminders and legal notices from the bank regarding recovery of the house loan, he did not reveal the matter to the police.

19. The perusal of the record more particularly the letters placed on record by Surender Kumar Walia, (Cr.MMO No.442 of 2021) some how shows that the bank draft amounting to Rs.22,00,000/- had been handed over to Khimi Ram as his clear from letter dated 23.05.2008 annexed in Cr.MMO No.442 of 2021. The Bank Manager has also placed on record a letter dated 25.09.2008 whereby the accused Khimi Ram had been asked to get the property mortgaged in favour of the bank. Strangely the perusal of the documents placed on record by the prosecution shows that the payments had been made directly to Prem Singh i.e. seller and that too by way of a bank transfer. The cheque placed on record further shows that Prem Singh had also withdrawn an amount of Rs.10,00,000/- himself, which is

stated to have been paid to the Bank Manager, accused Surender Kumar Walia, as per the prosecution.

20. It also clearly transpires from the record that in normal course of sale and purchase of property, the bank is obligated to hand over the banker cheque/draft to the seller before the revenue authority at the time of execution of the sale deed and a reference is also made in this behalf in the sale deed itself. Admittedly, no such endeavour has been made even by the officials of the bank. The accused Bank Manager Surender Kumar Walia should have handed over the draft before the revenue agency to say the least. Strangely, an amount of Rs.10,00,000/- is stated to have been taken back by the Manager by way of a cheque from Prem Singh respondent No.3, though it still has to be proved by the prosecution.

21. It is thus, apparent that even if the loan amount had to be disbursed to Prem Singh, which admittedly had been applied by Khimi Ram the same should have been handed over to the seller Prem Singh before the revenue authority and even a reference of the same should have been made in the sale deed. However, nothing of that sort

happened. In the facts and circumstances of the case. Ex-facie the complicity of all the accuseds including Khimi Ram cannot be ruled out. The complainant Khimi Ram is shown to have received draft No.025143 on 25.08.2008 for a sum of Rs.22,00,000/- as is clear from Annexure P-3, placed on record in Cr.MMO No.442 of 2021. On 29.09.2008 the Chief Manager is further shown to have asked Khimi Ram to get the property mortgaged. But all these documents have been issued under the signature of the Chief Manager.

22. The modus operandi by Prem Singh, the main protagonist could not have been possible without the connivance of the other two accuseds. The complainant and the Bank Manager prima-facie do seem to have been complicit. The documentary evidence placed on record does point to the complicity of the Bank Manager too. The documents showing that the draft amounting to Rs.22,00,000/- was handed over to Khimi Ram, whereas, as per the the other version the amount had been remitted to the account of Prem Singh directly does tend to show that even Khimi Ram was a part of the game plan, as admittedly, he was in receipt of not only the documents but all

information regarding the movement of the money. The bare reading of the FIR and the other material collected by the prosecution placed on record by the accuseds themselves thus shows at least a cognizable offence has been committed by the trio, including the complainant Khimi Ram. In fact, there is material placed on record that one of the co-accused Prem Singh had also duped the Canara Bank, Akhara Bazaar, Kullu, in the very same manner and in this behalf too, an FIR stands registered against him in Police Station Sadar Kullu, vide FIR No.89/2010, dated 28.03.2010, under Sections 420 and 34 IPC. One more case, FIR No.451/2009, dated 08.12.2009 under Section 420, read with Section 34 of IPC also stands registered against the co-accused Prem Singh at Police Station Kullu. The co-accused Prem Singh thus has been duping the banks employing the very same modus-operandi.

23. Though the learned counsel for the petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court in a case titled as **Pramod Suryabhan Pawar versus State of Maharashtra and another (2019) 9 Supreme Court Cases 608** and **Shafiya Khan alias Shakuntala**

Prajapati versus State of Uttar Pradesh and another (2022) 4 Supreme Court Cases 549 to contend that the implication of the present petitioners, as an accused was nothing, but an abuse of the process of the Court and apart from the bald allegations there was no material on record to justify the same and no offence had been made out on the basis of the complaint and material placed on record till date by the prosecution. I am afraid the factual narration discussed herein above, does not show that there is no material placed on record to connect the petitioners with the offence. There is sufficient material on record to connect all the three with the commission of the offence. Without the active connivance of each other, the co-accused Prem Singh could not have received the amount of Rs.22,00,000/-

24. For all the reasons detailed hereinabove, this Court is thus of the considered opinion that the petitions are devoid of any merit, consequently, both the petitions are dismissed.

25. The petition is disposed of in the aforesaid terms, pending application(s), if any, also stands disposed off.

26. The record of the learned trial Court be sent back forthwith.

(Chirag Bhanu Singh)
Judge

November 19, 2026
(subhash sharma)