



CRM-M-15073-2023 (O&M)

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

CRM-M-15073-2023 (O&M)

Reserved on : 21.01.2026

Decided on : 28.01.2026

Balwan & Ors.

..... Petitioners

VERSUS

Manju

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Deepak Aggarwal, Advocate for the petitioners.

Mr. J.K. Mittal, Advocate for the respondent.
(joined through hybrid mode)

SURYA PARTAP SINGH, J.

1. In this petition, under Section 482 of Code of Criminal Procedure, the petitioners are aggrieved of the order dated 15.02.2023, passed by the Court of learned Judicial Magistrate First Class Bhiwani, hereinafter being referred to as 'trial Court' only.

2. By virtue of abovementioned order, in a complaint case filed by the respondent against the petitioners for the commission of offence punishable under Sections 420, 467, 468, 471 and 120-B of Indian Penal Code, the learned trial Court has ordered that the petitioners have committed



an offence of forgery, and thus, charge for the commission of abovementioned offence has been framed against them.

3. It has been contended on behalf of petitioners that husband of the respondent No.1 had entered into an agreement for sale of a property in favour of petitioner No.1, but subsequently he failed to execute the sale deed of the same, and therefore, the petitioner No.1 had to file a suit for specific performance of the abovesaid contract. According to learned counsel for the petitioners unfortunately, the civil suit filed by the petitioner No.1 was dismissed by the learned trial Court, and the appeal against the verdict of the learned trial Court is pending.

4. According to learned counsel for the petitioners, the respondent No.1, who has nothing to do with the abovementioned transactions and has no *locus standi* for filing a complaint, has filed the complaint in the learned trial Court, wherein after summoning of the petitioners by virtue of impugned order the learned trial Court has observed that charge against the petitioners be framed. It has been further contended by learned counsel for the petitioners that the impugned order dated 15.02.2023 was challenged by the petitioners by filing a revision petition in the Court of Sessions, but even the Court of Sessions has failed to properly appreciate the factual matrix of the instant case and dismissed the same. Hence, the present petition.

5. Learned counsel for the petitioners has also contended that the impugned order deserves to be set aside particularly in view of the fact that



at the stage of framing of charge, the opinion with regard to *prima facie* case only is supposed to be formed by the learned trial Court, but in the case in hand, at this stage itself the learned trial Court has recorded the observations that the allegations against the petitioners stand proved beyond the shadow of reasonable doubt. According to learned counsel for the petitioners, the abovementioned observations are contrary to the settled principles of law, unwarranted, and therefore, the same deserve to be quashed.

6. In addition to above, it has also been contended on behalf of petitioners that otherwise also, the sole allegation contained in the complaint is that the Agreement to Sell dated 23.07.2012 executed by the husband of petitioner No.1 is a false and fabricated document, being an outcome of forgery. According to learned counsel for the petitioners, the genuineness of abovementioned Agreement to Sell has to be determined by the learned Civil Court in the appeal pertaining to suit for the decree for specific performance of the contract. As per learned counsel for the petitioners, since in the abovementioned appeal this opinion has to be formed, by the learned Civil Court, as to whether the Agreement to Sell, being alleged to be forged by the complainant/respondent, is a genuine document or not, till the decision of appeal any allegation against the petitioners that Agreement to Sell is a forged document, is not sustainable.

7. The abovementioned arguments have been controverted by learned counsel for the respondent. It has been contended by learned counsel



for the respondent that the learned trial Court is supposed to look into the *prima facie* case only. According to learned State Counsel in the present case, the learned trial Court on the basis of material available on record has observed that a *prima facie* case for the commission of offence punishable under Sections 420, 467, 468, 471 and 120-B of IPC, is made out against the petitioners, and that there is no illegality or infirmity in the abovementioned order. While defending the impugned order, the learned counsel for the respondent has contended that there is no merit in the present petition, and therefore, the same deserves dismissal.

8. The record has been perused carefully.

9. In the present case, at the very outset it is relevant to mention here that one of the arguments of learned counsel for the petitioner has been that the dispute between the parties is of civil nature, which has been given a colour of criminal case, and therefore, the complaint is not sustainable. However, this fact can't be ignored that before the learned trial Court, the petitioners have not achieved any success with regard to Agreement to Sell, they are relying upon. Otherwise also in the complaint, pre-charge evidence has been adduced by the complainant/respondent, to show that the document in question is a forged document. Thus, it is hereby held that in view of abovementioned factual matrix of this case, this argument does not hold good that a dispute of civil nature has been given a colour of criminal case. Since, civil proceedings and criminal proceedings are two independent



proceedings, wherein right of the parties has to be decided independently, it is hereby held that on the ground that a civil suit with regard to alleged Agreement to Sell is yet to be decided finally, the complaint filed by the respondent No.1 cannot be kept aside.

10. In the present case, the second ground raised by learned counsel for the petitioner is that while recording the findings in the impugned order, the language used by the learned trial Court shows that the verdict rendered by the learned trial Court reflects that the charge framed against the petitioners stands proved. As per learned counsel for the petitioners, at the stage of framing of charge the final verdict cannot be passed.

11. With regard to abovementioned contention, the observations made by learned trial Court are relevant. In concluding para of its order, the learned trial Court has observed as under:-

“Thus, it is apparent from even a naked look at the agreement to sell that it is a forged document prepared for making even some kind of underlying transaction between the parties. But whatever be the nature of transaction between the parties, the document is undeniably a forged document and thus, the offence of Sections 420, 467, 468, 471 and 120-B have been made out against the accused and thus, they be charged accordingly.”

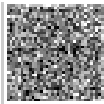
12. A bare perusal of abovementioned observations makes it clear that while passing the impugned order, the learned trial Court has formed its opinion and recorded the same in the Court as if it had arrived at final a



conclusion that the Agreement to Sell, in question, is a forged document. While doing so, the learned trial Court has failed to observe that till the date when the finding in question was recorded, the only evidence available on record was the pre-charge evidence of the complainant, and at that stage, neither the post-charge evidence was available, nor the defence evidence of the petitioners. Unless proper opportunity is afforded to the petitioners to defend themselves, by giving them opportunity to disclose their defence and prove the same, any trial Court is precluded from recording a finding that allegations contained in the complaint are true.

13. However, in the instant case it is also relevant to mention here that the evidence adduced by the complainant before the learned trial Court was sufficient and good enough to form an opinion that a *prima facie* case for the commission of offence punishable under Sections 420, 467, 468, 471 and 120-B of IPC was made out against the petitioners.

14. In view of abovementioned peculiar facts and circumstances of the present case, the present petition is hereby ***disposed of*** while observing that there is no need for interference and indulgence in the observations made by the learned trial Court with regard to framing of charge against the petitioners. However, the observations made by the learned trial Court, while recording that the document in question is undeniably a forged document, deserve to be explained and therefore, it is hereby ordered that the abovementioned impugned observations of the learned trial Court shall be



treated as if *prima facie* case, only, is made out and it shall not be treated that the final observations with regard to forgery of Agreement to Sell have been made.

15. As a sequel to abovementioned observations, it is hereby clarified that the abovementioned observations shall not have any bearing at the time of final adjudication of the present case.

(SURYA PARTAP SINGH)
JUDGE

28.01.2026

Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No