



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

119

CRM-M-39771-2017(O&M)

Date of decision: 16.02.2026

Raghu Bansal

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Gautam Dutt, Senior Advocate assisted by
Mr. Rohan Gupta and Mr. Yajur, Advocates
for the petitioner.

Dr. (Ms.) Savi Nagpal, AAG, Punjab.

Mr. Akashdeep Singh, Advocate for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

Under challenge is the order dated 24.08.2015 passed by the Judicial Magistrate First Class, Rajpura allowing the application under Section 319 Cr.P.C. and thereby summoning the petitioner as an additional accused in case bearing FIR No.199 dated 28.07.2010 registered under Sections 406, 420 of the Indian Penal Code, 1860 at Police Station Sadar Rajpura, District Patiala and also against the judgment dated 07.07.2017 passed by the Additional Sessions Judge, Patiala whereby the revision petition filed by the petitioner herein against the order dated 24.08.2015 above was dismissed.

2. The aforesaid FIR came to be registered on the basis of a written complaint submitted by one Ashok Kumar, son of Radhey Shyam. The substance of the said complaint reads as follows:—

"Sub: Complaint/representation for the directions to S.S.P. Patiala to register the case against Raghu Bansal son of Shri Mukand Lal R/o H.No.2724, Sector 22-B, Chandigarh, Kali Ram R/o H.No.2755, Sector 37-C, Chandigarh, Bal Krishan S/o Dogarmai, R/o H.No.171, Ekata Vihar, Baltana, Daljit Singh son of Ujagar Singh R/o H.No.4493, Shamo Nagar, Rajpura, Waryam Singh son of Mohan Singh R/o Bhatt Majra, Distt. Rajpura, Prem

Singh son of Natha Singh, Amarjit Singh son of Sh.Jagdish Bansal son of Mukand Lal R/o H.No.2724, Sector 22-B, Chandigarh, Naresh Goyal son of Sh.Chajju Ram R/o H.No.794, Sector 11, Panchkula, Kewal Krishan son of Sh.Banarasi Dass R/o Samana Mandi, Distt. Patiala, Sham Lal son of Sh.Natha Singh, Gurbachan Singh son of Natha Singh, Davinder Singh son of Natha Singh, Jasmer Singh son of Natha Singh, Paramjit Singh son of Natha Singh, Smt. Surjit Kaur W/o late Sh.Bakhtri, Tehsil Rajpura, Distt. Patiala, Punjab, for cheating, fraud breach of trust, criminal intimidation and threat to life in connivance with each other. Respected Sir, It is humbly submitted that my name is Ashok Kumar son of Sh.Radhey Shyam living in H.No.2723, Sector 22-C, Chandigarh. I am peace loving person and doing the business of readymade garments with dignity and honestly at shop No.40, Sector 20C, Chandigarh, in the name of Nirmal Garment for the last six years with deep roots in society as a socially renowned person. Unfortunately, above said Raghu Bansal and other persons came into my life to spoil ruin, damage my reputation and peace of mind in the month of November and December, 2005 with the fraudulent intentions and with a cheating concept of setting up a colony by them and they offered me a 5% share in that colony and they had to pay Rs.1 Crore to some Commission Agent. Being a neighbour I have believed on Raghu Bansal alongwith his three other partners have entered into one agreement to sell with one Daljit Singh and Waryam Singh and thereafter he alongwith his above said other associates entered into other agreement to sell and he never gave any receipt of Rs.5 lacs to me. Moreover gave any he again demanded Rs.10,000/- for the development of colony and I had given Rs.10,000/- for the fabrication of roads in that so called Colony. Subsequently they have started selling the plots in 30 acres area of village Rajpura and Bahteri and all the agreement to sell done by Kewal Krishan, Raghu Bansal, Sham Lal and Naresh Goyal they used to explain me as 50% shareholder being the transaction this has been done by Bal Krishan who is the R/o village Baltana. I

have selected nine plots in that colony and had paid Rs.11 lacs as down payment to Raghu Bansal and Raghu Bansal has directed/authorised Mr.Bal Krishan to become the party in Biana and the signatures of Kewal Krishan. There were some Mango Trees on this land and above said person have sold out the trees in connivance with each other. It is pertinent to mention here that that this they further conspired with each other. It is pertinent to mention here that this colony is not approved by PUDA, not only this they further conspired with each other and told me to construct bungalow on the tone of the plots under after construction I can give it to on rent. I spent more than Rs.5 lacs on the Bungalow and it was an instigation to me for the construction of the Bungalow so that I may come in the clutches of the above said persons Naresh Goyal entered into an agreement to sell of 29 plots in the tune of Rs.32 lacs with Navneet Sadan R/o H.No.2324 Sector 23-C Chandigarh Raghu and Jagdish again compelled me to do hard work to sell the plots in the colony and they will give common for it. Here also they have cheated me and in connivance with the villagers they made power of Attorney in the name of me and Naresh Goyal and Naresh Goyal has executed by only one registry and remaining all have been done in my name. Out of these some have concluded there full and final and the money was taken by Raghu Bansal, Jagdish and Bal Krishan. Some persons have not preferred the intakals for the registries done by me and that land was standing free. Out of this chunk of land approximate 1000 sq.yards have been sold out by Naresh Goyal without disclosing to me the intention of above persons went at extreme level of fraud when they left the business in between without maturing the transactions and deals. Moreover, when I had made the request for registry of my plots then they have threatened me for dire consequences if I would demand for it. Even they have threatened me for the elimination of my family and was further threatened for implication in some false cases. Apart from it one Neel Kamal son of Raj Kumar R/o H.No.182 Tribune Colony, Baltana has also been victimized by the all above

persons as some of the registries have been made in this name and monitory benefits from those transaction have been kept by them in their own pockets. Sir as my business is settled in Chandigarh and it was difficult for me to sit in each and every transaction and they have taken advantage of it and I have been cheated and defrauded. It is worthwhile and pertinent to mention here that all the transaction by the above said persons have put the hammer and axe on state exchequer as the agreement to sell were in the tune of Rs.1355/- per Sq. Yard but the registries have been done in the roads in that so called colony have also been sold out. Sir, it is a big nexus of Land Mafia to spoil the well settled families by pulling them into the illegal land and property business. I am victim of above said persons. There is no hope of justice from the Distt. Police. Hence this complaint before your goodself for necessary and expedite action. It is, therefore, respectfully prayed that a thorough probe may kindly be done in this matter so that all the responsible persons involved in this crime must be booked under the appropriate Sections of Indian Penal Code so that truth and justice should prevail.”

3. After registration of the FIR, the police investigated the matter and arrived at a conclusion that involvement of the petitioner was not borne out from the evidence gathered during the course of investigation. It was specifically concluded that no nexus or connection of the petitioner could be established with the execution of the General Power of Attorney in favour of the complainant-Ashok Kumar along with Naresh Kumar, by the original owners, namely, Gurdev Singh @ Bakhtiar Singh, Gurbachan Singh, Prem Singh, Amarjeet Singh, Jasbir Singh and Paramjeet Singh. In view of the aforesaid findings, the investigating agency submitted its final report under Section 173 of the Code of Criminal Procedure, 1973.

4. Subsequent to the framing of charge against the other accused, the trial commenced and evidence of PW-4 Ashok Kumar was recorded.

Thereafter, the prosecution moved an application under Section 319 Cr.P.C. for seeking the summoning of the petitioner and six other individuals, namely, Jagdish Bansal, Kewal Krishan, Jasbir Singh, Gurbachan Singh, Daljeet Singh and Warayam Singh, to face trial in the present case as additional accused. A reply to the same was filed reiterating that no prima facie material had emerged from the evidence on record to connect the proposed accused with the allegations in question and the conclusions arrived at by the investigating agency be accepted.

5. Notwithstanding the aforesaid objections, the trial Court, vide its order dated 24.08.2015 allowed the application under Section 319 Cr.P.C. and proceeded to summon the petitioner along with six others as additional accused to stand trial.

6. Aggrieved thereof, the petitioners approached the Court of Sessions by way of a revision. The said revision petition was also dismissed vide judgment dated 07.07.2017 passed by the Additional Sessions Judge, Patiala. Hence, the present petition.

7. Learned Senior Counsel appearing on behalf of the petitioner contends that the dispute in the present case arises out of a transaction concerning agricultural land admeasuring 53 Bighas, originally owned by Surjit Kaur (widow of Gurdev Singh @ Bakhtiar Singh), Gurbachan Singh, Prem Singh, Amarjeet Singh, Jashmer Singh @ Jasbir Singh, Paramjeet Singh and Davinder Singh.

8. It is contended that the aforesaid land was situated in two distinct revenue estates. Out of the above total holding, 06 Kanals and 15 Marlas fell in the revenue estate of Rajpura and the remaining 48 Bighas and 17 Biswas was situated in Mauja Bhateri. It is further argued that two

separate agreements to sell, both dated 22.06.2005, were executed in favour of Daljeet Singh and Warayam Singh. Under the terms of the said agreements, the registration of the sale deed was to be completed on or before 21.06.2007.

9. He further contends that on the strength of aforesaid agreement to sell, Daljeet Singh and Warayam Singh, in turn, executed an agreement to sell dated 26.12.2005 in favour of petitioner-Raghu Nath, Naresh Kumar, Sham Lal and Kewal Krishan. In the above agreement, the date for execution of the sale deed was fixed as 21.05.2007.

10. In furtherance of the said agreement, the petitioner and the other proposed vendees, namely, Naresh Kumar, Sham Lal and Kewal Krishan paid a substantial consideration to Daljeet Singh and Warayam Singh in the following manner: a sum of Rs.1.10 crore on 26.12.2005; a sum of Rs.1 crore on 01.04.2006; a sum of Rs.74 lakhs on 12.05.2006; and a further sum of Rs.34 lakhs on 10.07.2006.

11. Learned Senior Counsel further submits that since Daljeet Singh and Warayam Singh failed to perform their obligations under the agreement to sell and did not execute the sale deed within the prescribed period, the petitioner and the other vendees were constrained to institute a civil suit for specific performance dated 31.05.2008. The said suit was filed against Daljeet Singh and Warayam Singh, as well as the original landowners, namely, Surjit Kaur (widow of Gurdev Singh @ Bakhtiar Singh), Gurbachan Singh, Prem Singh, Amarjeet Singh, Jashmer Singh @ Jasbir Singh, Paramjeet Singh and Davinder Singh.

12. It is contended that the Civil Court partly decreed the suit by granting the alternative relief and defendants No.1 & 2 therein, namely Daljeet Singh and Warayam Singh, were directed to refund the earnest money amounting to Rs.2.18 crores to the plaintiffs. The said direction was issued vide judgment and decree dated 10.02.2016, after taking into consideration the statement of accounts and the payments established on record.

13. Learned Senior Counsel further submits that the present FIR was got later registered by complainant-Ashok Kumar against the petitioner and 15 other persons alleging, inter alia, that a sum of Rs.16.10 lakhs had been paid by the complainant to the petitioner towards plots to be purchased in the above land. It is contended that, as per the sequence of events established, the original landowners, namely, Gurdev Singh @ Bakhtiar Singh (who is stated to have expired in the year 1994), Gurbachan Singh, Prem Singh, Amarjeet Singh, Jashmer Singh @ Jasbir Singh and Paramjeet Singh, executed two separate Powers of Attorney dated 05.05.2006 qua land admeasuring 06 Kanals and 15 Marlas, situated at Rajpura, in favour of complainants-Ashok Kumar and Naresh Kumar. On the strength of the said Powers of Attorney, respondent No. 2 – Ashok Kumar executed further sale deeds in favour of third parties. It is further submitted that Naresh Kumar likewise executed a sale deed in favour of one Navneet Sidana, who, in turn, transferred the property to Gurcharan Singh. The petitioner is stated to have been a marginal witness to said sale deed.

14. He further contends that it later transpired that the Powers of Attorney dated 05.05.2006, executed by the landowners, namely, Gurdev

Singh @ Bakhtiar Singh, Gurbachan Singh, Prem Singh, Amarjeet Singh, Jashmer Singh @ Jasbir Singh and Paramjeet Singh in favour of complainant, suffered from a fundamental infirmity. It is pointed out that Gurdev Singh @ Bakhtiar Singh had, in fact, expired in the year 1994. In such circumstances the Power of Attorney dated 05.05.2006 could not have been executed for and on behalf of the said Gurdev Singh @ Bakhtiar Singh, who had passed away more than a decade prior to the execution of the document. The discovery of this material fact is stated to have triggered the present dispute.

15. It is contended that the respondent-complainant has levelled frivolous allegations to the effect that he had entered into a master-servant relationship with the petitioner and had agreed to purchase a 5% share in the land qua which two agreements to sell dated 22.06.2005 were executed by the original owners in favour of Daljeet Singh and Warayam Singh, and the subsequent agreement to sell dated 26.12.2005 executed in favour of the petitioner and others. He submits that no documentary proof of any nature whatsoever has been furnished by the respondent-complainant at any stage to establish either the existence of such claimed relationship with the petitioner or the payment of any consideration, in furtherance thereof.

16. It is contended that in any case, there is no dispute whatsoever with regard to the agreements to sell dated 22.06.2005 executed by the original owners or the rights whereunder ultimately devolved upon the petitioners herein by virtue of the subsequent agreement dated 26.12.2005. It is submitted that the civil suit arising out of the said contractual arrangements has already been adjudicated and decreed, thereby settling the

inter se civil rights of the parties. The bone of contention forming the basis of the present proceedings emerges from the execution of the Power of Attorney dated 05.05.2006, which is stated to have been executed even on behalf of the deceased landowner, Gurdev Singh @ Bakhtiar Singh. It is emphatically argued that the petitioner is neither a signatory to the said Power of Attorney nor was he in any manner instrumental in its execution. The petitioner is not a party to the transaction between the original landowners and Ashok Kumar or Naresh Kumar insofar as the Power of Attorney executed in their favour is concerned. At best, the petitioner is signatory only as an attesting witness in a subsequent third-party transaction. Such attestation neither gives rise to any culpable liability nor can it be construed as participation by the petitioner in the alleged fabrication or misuse of any Power of Attorney. It is further submitted that the investigating agency, having examined the material on record and finding no evidence to link either the petitioner's involvement or his participation in the execution of the Powers of Attorney dated 05.05.2006, rightly found him innocent during the course of investigation.

17. It is submitted that the trial Court has proceeded to summon the petitioner, in the absence of any cogent evidence, and only upon self-serving oral testimony of the respondent No.2-complainant herein. He further contends that a mere self-serving statement, particularly in relation to transactions evidenced by documentary instruments, would not, by itself, constitute sufficient material to summon an individual as an accused under Section 319 of the Code of Criminal Procedure, 1973 when none of the documents reflect involvement of the petitioner.

18. Per Contra, learned State Counsel as well as counsel for respondent No.2-complainant contend that the order of summoning has been rightly passed after noticing that the petitioner has been a signatory to one of the payment receipts which prima facie establishes his nexus with the land in question and the transactions arising therefrom. Hence, the petitioner cannot be permitted to contend that he had no concern whatsoever with the subject transaction.

19. They however do not dispute that the aforesaid receipt was not executed for, nor does it pertain to, any transaction directly involving the petitioner herein. It is further not disputed that there is also no documentary evidence to substantiate the existence of any agency-principal relationship or master-servant arrangement between the complainant and the petitioner. It is further not disputed that there is no documentary proof evidencing any payment having been made by respondent No.2 to the petitioner.

20. Notwithstanding the aforesaid position, it is contended that the role attributed to the petitioner is comparable to that of Kewal Krishan and Sham Lal, who are presently facing trial.

21. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petition.

22. Before proceeding any further in the matter, it would be apposite to make a reference to the orders under challenge herein.

23. The operative part of the order dated 24.08.2015 passed by the Judicial Magistrate First Class, Rajpura reads as under:-

“4. I have heard the ld. Counsel for the parties & carefully pursued the case file. Perusal of the case file reveals that in the present

case FIR has been lodged on the basis of application moved by the complainant to ADGP, Punjab dated 19.10.2009. The applicant in his application to the ADGP, Punjab has mentioned the names of 15 persons, out of which FIR was lodged only against 10 persons and further at the time of presentation of challan one of them namely Raghu Bansal was kept in column no.2 and challan was not presented against him. Now, in the present case the complainant has stepped into witness box as PW-4 and his examination in chief has already been concluded. During his examination in chief PW-4 Ashok Kumar, complainant has clearly leveled allegation against accused Raghu Bansal, Sham Lal, Naresh Goel, Bal Krishan and Kewal Krishan that they got executed the sale deeds from him and grabbed the whole money and has not paid anything to him. The complainant in his examination in chief has clearly stated that Bakhtawar Singh has already died and the accused persons in connivance with each other has got executed documents on behalf of deceased in their favour and placed on record copy of the same as Ex. PW4/A and Ex. PW4/B. The complainant in his examination in chief has also leveled allegation against accused Daljeet Singh and Wariam Singh also. Further, the complainant in support of his case has placed on record the agreement to sell executed between Raghu Bansal, Sham Lal, Naresh Goel, Kewal Krishan on one side and Daljeet Singh and Wariam Singh on other side and the copy of agreement executed by Raghu Bansal, Naresh Goel and Kewal Krishan with the prospective buyers. The complainant has also placed on record the receipts dated 10.7.2006 and 12.5.2006 issued by accused Daljeet Singh which are counter signed by accused Raghu Bansal. Thus, it is clear that there is sufficient evidence on record to proceed against accused Raghu Bansal, Kewal Krishan, Gurbachan Singh, Daljit Singh and Wariam Singh as their names are clearly depicted in the documentary evidence placed on record as well as in the examination in chief of the complainant Ashok Kumar.

5. So far as accused Jagdish Bansal is concerned, there is no document placed on record by the complainant against him, except the oral version. Even, the alleged agreement to be executed between accused Raghu Bansal, Naresh Goyhal, Sham Lal & Kewal Krishan on one side and accused Dalipt Singh and Wariam Singh on the other side, no where depicts the name of accused Jagdish Bansal. Similarly, in the agreement executed between accused Raghu Bansal, Sham Lal, Naresh Goel and Kewal Krishan with prospective buyers also the name of accused Jagdish Bansal is not there. The other documents placed on record by the complainant also do not find a mention of the name of accused Jagidh Bansal. Thus, it is clear that complainant has failed to placed on record sufficient evidence against accused Jagdish Bansal, at this stage of the case to proceed against him. Further, so far as accused Jasbir Singh son of Natha Singh is concerned, the accused persons in their reply have clearly stated that accused Jasmer Singh, already facing trial in this case is the same person who has been mentioned as accused Jasbir Singh in the present application. The judgment relied upon by the accused persons are not applicable against accused Raghu Bansal, Kewal Krishan, Gurbachan Singh, Daljeet Singh and Wariam Singh as there is sufficient and convincing evidence on record to summon these persons. Further so far as accused Jagdish Bansal and Jasbir Singh are concerned, in the light of above said judgment, there is no sufficient evidence against these accused person. Accordingly, the present applicant against accused Jasbir Singh son of Natha Singh and Jagdish Bansal is not maintainable.

6. In view of my above said discussion, present application against accused Raghu Bansal, Kewal Krishan, Gurbachan Singh, Daljeet Singh and Wariam Singh stands allowed and against accused Jagdish Bansal and Jasbir Singh stands dismissed. Now the accused Raghu Bansal, Kewal Krishan, Gurbachan Singh, Daljeet Singh and Wariam Singh be summoned to face trial under section 406/420 IPC for 23.9.2015.”

24. In challenge, the revision petition was dismissed by the Additional Sessions Judge, Patiala vide judgment dated 07.07.2017. The relevant part thereof extracted as under:

“7) After hearing arguments I have gone through the record carefully.

*8) As far as law on the point of summoning of additional accused under Section 319 Cr.P.C., is concerned in **Hardeep Singh Vs. State of Punjab [2014(3) SCC 92]** Hon'ble Supreme Court has been pleased to observe that the power under Section 319 Cr.P.C. is discretionary and an extra-ordinary power which is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It has further been observed that the test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction and in the absence of such satisfaction the Court should refrain from exercising the power under Section 319 Cr.P.C.*

9) In the case in hand, earlier the accused/revisionist was placed in column no.2 of the challan. In an inquiry conducted by the police he was found innocent but it is settled that Trial Court can take cognizance against an accused if evidence appears against him on the record. In this case the complainant stepped into the witness box as PW4 and has categorically leveled allegations against the revisionist Raghu Bansal along with other accused that revisionist Raghu Bansal was neighbourer of complainant. The complainant was running shop of Readymade Garments. The revisionist Raghu Bansal was having visiting terms with complainant. Raghu Bansal came on the shop of complainant in December, 2005 and stated to him that they being five partners were carving out a colony in Rajpura and asked the complainant for his share upto the extent of 5%. The complainant believed him and agreed for the said share in the colony. He specifically deposed that he gave 5 lacs to the revisionist Raghu Bansal. He

specifically deposed that Raghu Bansal showed him one agreement to sell in their favour. The complainant has further specifically stated that he gave another 10,000/- to Raghu Bansal for laying roads in the colony and after laying the roads in the colony accused started taking amount from the purchasers for selling the plots but no share was given to the complainant. He has specifically He has deposed that accused including Raghu Bansal got executed sale deeds from him and grabbed whole money and did not pay anything to him. There is a forgery of power of attorney dated 5.5.2006 in this case and complainant/PW4 has specifically deposed that one Bakhtaur Singh original owner though had already died but the accused persons in conspiracy with one another got executed documents and General Power of Attorney dated 5.5.2006 Vasika No. 59 and 60 which he has proved on record as Ex.PW4/A and Ex.PW4/B. Thus, there is direct role of Raghu Bansal as attributed by the complainant. He was near to the complainant being his neighbourer and allured him at the first instance. There are allegations regarding the execution of forged power of attorney of deceased Bakhtaur Singh dated 5.5.2006 whereas he had already died and cheating the complainant and inducing him to execute the sale deeds. As such a case which is more than prima facie case for the purpose of framing charge is made out against the revisionist and thus the exercising of power to summon him as additional accused by the learned Trial Court was in accordance with the law. The impugned order is reasoned and legal one and thus does not require any interference.

10) In view of the above discussion, the revision petition having no merits is hereby dismissed. Parties are directed to appear before the learned Trial Court on 18.7.2017. Trial court file be returned along with copy of this judgment and this court file be consigned to the record room."

25. It is evident from the perusal of the aforesaid that the Trial Court has proceeded to summon the petitioner solely on the basis of the allegations

levelled by respondent No. 2 – the complainant in his examination-in-chief to the effect that the petitioner, along with the other accused, allured him on the pretext of execution of sale deeds and appropriated the entire sale consideration and failed to remit any amount to him. The Court of Additional Sessions Judge, Patiala, while dismissing the revision petition, also reiterates the same reasoning in para No.9 of its order. It has been recorded therein that the complainant entered the witness box as PW-4 and levelled specific allegations against the petitioner. The complainant deposed that the petitioner had informed him in December 2005 that five partners were in the process of developing a colony at Rajpura and had offered him a 5% share therein. Acting upon such representation, the complainant claimed to have handed over money to the petitioner on various dates and occasions. It was further stated that thereafter the petitioner procured the execution of sale deeds from him, appropriated the entire consideration and paid nothing to the complainant. The complainant also asserted that, despite being cognizant of the death of Gurdev Singh @ Bakhtiar Singh, the accused persons got a Power of Attorney executed on 05.05.2006, in his name, even for and on behalf of a pre-deceased landowner. On this premise, it has been stated that the complainant has been defrauded.

26. The sequence of events, as narrated by respondent-complainant, however, fails to inspire merit for summoning of the petitioner herein. The case set up by the respondent-complainant is to the effect that he was initially approached by the petitioner, who allegedly represented that five partners were developing a colony near Rajpura College and offered him a 5% share therein. It is further alleged that, acting upon such representation, certain payments were made by the complainant to the petitioner on different dates. However, the

propounded version suffers from inherent infirmities. There is no explanation forthcoming as to why, in relation to a transaction involving substantial financial consideration and an alleged share in a real estate venture, no written agreement, memorandum of understanding, partnership deed or any other contemporaneous document was ever executed. The absence of even the most elementary documentary safeguard in a transaction of such magnitude casts a serious doubt on the veracity of the allegations. So much so, neither during the course of investigation nor at the stage of trial has any receipt or documentary evidence been produced by the complainant to substantiate the alleged payments claimed to have been made by respondent No. 2 to the petitioner. In the absence of any material corroboration, the bald oral assertions of the complainant do not appear to meet the threshold required for summoning an additional accused to face trial.

27. It is further alleged by respondent No. 2 – the complainant that the petitioner induced him to execute subsequent sale deeds in favour of 3rd parties and thereafter appropriated the sale consideration having received the same from the buyer. However, a closer scrutiny of the material on record does not support to the said assertion.

28. Insofar as the sale deeds executed by Ashok Kumar on the strength of the Power of Attorney dated 05.05.2006 are concerned, it is not disputed that the petitioner is neither a party thereto nor a signatory to any of the said instruments. Equally significant is the absence of any material indicating the circumstances under which the sale consideration, in respect of the land so conveyed, was allegedly received by the petitioner. The complaint is conspicuously silent on this crucial aspect. No explanation has been forthcoming, either in the pleadings or during the course of arguments on

behalf of respondent No. 2, as to how and in what manner the sale consideration had been delivered to the petitioner. The name of the petitioner figured as an attesting witness only in a subsequent sale deed arising from the initial transaction executed by Naresh Kumar in favour of Navneet Sidana, who had further sold the property to Gurcharan Singh. Even in that subsequent instrument, there is no reference indicating that any part of the consideration was received by the petitioner. In any case, the said transaction was never executed with the complainant herein.

29. It was further contended that both i.e. during the examination-in-chief and during the arguments, that an authorization had allegedly been conferred by Raghu, along with others, subsequent to the execution of the agreement to sell dated 26.12.2005, and that such authorization materialised in the form of two Powers of Attorney dated 05.05.2006. The aforesaid suggestive argument, however, does not inspire any confidence, since had that been the case, there would have been no occasion or reason for the petitioner herein to have executed a separate agreement to sell dated 26.12.2005 in his favour by Daljeet Singh and Warayam Singh. It is also not in dispute that no Power of Attorney of any nature whatsoever has been executed by Raghu in favour of any person. On the contrary, the Powers of Attorney dated 05.05.2006 are executed by the original landowners. There is no link to establish as to under what circumstances the petitioner had been instrumental in procuring or facilitating the execution of the said Powers of Attorney. Significantly, neither the FIR nor the examination-in-chief of respondent No. 2 contains any averment or evidence elucidating the role of the petitioner in obtaining the Powers of Attorney. The record is conspicuously silent on this foundational aspect. In the absence of any link evidence establishing nexus or participation,

the inference sought to be drawn against the petitioner remains unsupported by the material on record.

30. Besides, if the petitioner herein had exerted influence over the original landowners so as to procure the execution of the Powers of Attorney in his favour, there would have been no petitioner to institute a civil suit for specific performance against the original owners along with Daljeet Singh and Warayam Singh. In such a scenario, the petitioner could well have secured execution of the sale deed directly from the original owners themselves, obviating the necessity of resorting to civil proceedings. It is thus apparent that either the true genesis of the occurrence is not being revealed or the facts have been grossly distorted. The sole document relied upon by the respondent-complainant is a receipt bearing the signatures of the petitioner, which is sought to be construed as indicative of his connection with the land measuring 53 Bighas, situated in both revenue estates, namely Rajpura and Mauja Bhateri. However, mere presence of signatures on a receipt, without any clear recital establishing receipt of consideration or delineating the petitioner's role in the transaction, it cannot constitute substantive evidence of culpability.

31. The mere establishment of a peripheral linkage of the petitioner with the land in question cannot, ipso facto, justify drawing of an inference that offences under Sections 406 and 420 of the Indian Penal Code, 1860 stand prima facie made out against him.

32. The prosecution is not to be launched on the basis of knowledge of the petitioner about the land or his assertion or remote link with it. The same is on an allegation of alluring to receive money on false pretext and having got a fraudulent General Power of Attorney executed in favour of the complainant.

The evidence however fails to establish the following:

- i. There is nothing on record to establish making of any payment by complainant to the petitioner;
- ii. There is nothing on record to establish that the petitioner had any role in execution of General Power of Attorney in favour of the complainant;
- iii. There is nothing on record to establish that the petitioner received any money with respect to the land sold by the petitioner to any 3rd party.
- iv. The petitioner is only marginal witness to one subsequent sale deed.

Hence, neither the allurement nor delivery of any property is established from any evidence on record, other than a bald statement. Such bald statement, in such cases, is grossly insufficient to steer a successful conviction, even if not countered by any defence evidence.

33. The burden lies on the prosecution to demonstrate, at least a *prima facie* existence of dishonest inducement followed by delivery of property pursuant thereto and a culpable intention on the part of the accused at the inception of the transaction. The inference of guilt against the petitioner herein cannot be founded upon a remote or indirect association of the petitioner with the subject land, more so when such association pertains to their own independent contractual transaction that failed to fructify and ultimately culminated in a decree dated 10.02.2016 passed by the competent Civil Court for alternative relief. Independent and distinct transactions cannot be conflated so as to attribute criminal intent in respect of a separate cause of action. The criminal process cannot be set in motion on the basis of

conjectural linkage or collateral involvement in unrelated transaction. In the absence of specific material demonstrating the petitioner's participation in the alleged acts of cheating or criminal breach of trust qua respondent no. 2, the essential ingredients of offenses alleged remains unestablished.

34. Insofar as the submission advanced on behalf of respondent No.2-complainant that the co-accused, namely Sham Lal and Kewal Krishan, being similarly situated, have not chosen to assail the order of summoning and are presently facing trial, is concerned, the same does not merit acceptance. This Court cannot subscribe to the proposition that merely because certain co-accused have elected not to challenge the order of summoning, an inference of implied admission of guilt must necessarily be drawn against all persons who were summoned pursuant to the same order. Criminal liability is personal in nature, and the right to assail an order affecting one's liberty is equally individual. Each accused is entitled to contest the proceedings on his own merits and is dependent upon his own strategies and advice given to him. The decision of a co-accused, taken in his own discretion and under circumstances peculiar to him, cannot operate as an estoppel against the petitioner (other accused), nor can it curtail the petitioner's statutory or constitutional right to challenge the legality and correctness of the summoning order. The adjudication of culpability must rest upon the material attributable to each individual accused and not upon the conduct or choices of others similarly arrayed.

35. Needless to submit that an order of summoning in a criminal trial has severe implication on the personal liberties and reputation of an individual. The act of compelling a person to face a criminal trial is not a matter of routine. It entails exposure to coercive process, social stigma and prolonged judicial

scrutiny. Such power, therefore, should be exercised with circumspection and upon satisfaction of the threshold mandated by law. In a case of the present nature, arising out of an alleged monetary transaction intertwined with a property dispute, the evidentiary standard assumes particular significance. A mere solitary and self-serving oral assertion, unsupported by independent corroboration, lacking objective particulars and unaccompanied by documentary proof which a person of ordinary prudence would ordinarily insist upon in transactions involving substantial sums, would not, by itself, constitute sufficient foundation for summoning an individual as an additional accused. The criminal law would not be set in motion on the basis of conjecture or unverified allegations, especially where the dispute bears a predominant civil complexion. The judicial conscience should be satisfied that the material on record discloses more than a mere suspicion and should reveal a prima facie case founded upon credible and substantive evidence. In the absence of such material, the summoning of a person to face trial would amount to an unwarranted intrusion upon personal liberty.

36. I find that the order dated 24.08.2015 passed by the Judicial Magistrate First Class, Rajpura and judgment dated 07.07.2017 passed by Additional Sessions Judge, Patiala do not reflect due application of mind to the settled principles governing the summoning of an additional accused under Section 319 Cr.P.C. The test required to be applied is not that of a mere prima facie case in its most rudimentary sense, but one of a higher threshold namely, the existence of cogent evidence indicating the probable involvement of the proposed accused in the commission of the offence. The allegations and the version put forth by respondent No.2-complainant, even if taken at their face value and accepted in entirety, fail to establish the necessary ingredients for

commission of offence inasmuch as there is neither any evidence on record to prima facie establish delivery of property by the complainant to the petitioner nor is there any evidence of an inducement or assurance given by the petitioners herein, which could be said to have occasioned such delivery. In the absence of foundational facts demonstrating dishonest inducement at the inception of the transaction and consequent delivery of property, the offences alleged under the penal law cannot be said to be attracted. The impugned orders, having failed to examine the matter in the light of the aforesaid legal parameters, cannot be sustained.

37. Consequently, the present petition is *allowed* and the order dated 24.08.2015 passed by the Judicial Magistrate First Class, Rajpura and judgment dated 07.07.2017 passed by Additional Sessions Judge, Patiala are set aside.

38. Pending application(s), if any, shall stand disposed of.

16.02.2026

Sumit Gusain

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(VINOD S. BHARDWAJ)
JUDGE