



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

CRM-M-53491-2023 (O&M)

Reserved on:-20.04.2026

Pronounced on:- 28.04.2026

Uploaded on:- 28.04.2026

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

SURINDER KUMAR DHIR

...Petitioner

Versus

STATE OF PUNJAB AND ANR.

....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Ms. Ritu Punj, Advocate with
Mr. Sanjay Punj, Advocate
for the appellant.

Mr. Rituraj Singh, DAG, Punjab.

MANDEEP PANNU, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 18.01.2023 passed by the learned Judicial Magistrate First Class, whereby the prayer of the petitioner for discharge was declined, and also for quashing of the order dated 08.09.2023 passed by the learned Sessions Judge, Ludhiana, whereby the revision petition preferred against the aforesaid order dated 18.01.2023 was dismissed.

2. Briefly stated, the facts necessary for adjudication of the present petition are that FIR No.112 dated 09.07.2016 was registered under Sections 419, 420, 465, 467, 468, 471, 120-B IPC and Section 82 of the Registration Act at Police Station Division No.6, Ludhiana on the basis of a complaint



made by respondent No.2-complainant Suman Sabharwal. The complainant alleged that she had purchased a plot measuring 170 square yards vide sale deed bearing Vasika No.787 dated 11.04.2011 from accused Pritpal Kaur and paid the sale consideration to Pritpal Kaur, Avtar Singh, Inderdeep Singh and Sandeep Singh. It was further alleged that the present petitioner Surinder Kumar Dhir projected himself to be a property dealer and assured the complainant that the transaction was genuine and also stood as an attesting witness to the said sale deed executed in the year 2011. The complainant further alleged that in November, 2015, when she attempted to raise construction over the plot, one Banta Singh obstructed her and claimed that she was not the owner of the property, whereafter she came to know that accused Pritpal Kaur, her husband and sons had cheated her. It was further alleged that mutation in her favour had also been cancelled and that one Surjit Singh, by impersonating himself as Anil Kumar Syal, had sold the plot to accused Pritpal Kaur, who thereafter sold the same to the complainant. After registration of the FIR, the challan was presented against the present petitioner as well as the other co-accused. The petitioner had earlier approached this Court by filing a petition seeking quashing of the FIR. However, the said petition was disposed of as withdrawn with liberty to the petitioner to raise all the pleas available to him at the stage of framing of charges. While disposing of the said petition vide order dated 27.07.2022, a Coordinate Bench of this Court clarified that the concerned trial Court shall grant appropriate opportunity to the accused to raise the said pleas. Thereafter, the present petitioner moved an application under Section 239 Cr.P.C. seeking his discharge primarily on the ground that the only allegation



against him was that he had appended his signatures as an attesting witness on the sale deed dated 11.04.2011, and that no person was impersonated in his presence nor had he wrongly identified any person before the authorities concerned and, therefore, no offence was made out against him. Notice of the said application was issued to the State, which contested the same. Upon hearing the parties, the learned trial Court dismissed the said application vide the impugned order dated 18.01.2023. Aggrieved against the aforesaid order, the petitioner/revisionist preferred a revision petition before the learned Sessions Judge, Ludhiana. However, after hearing both the parties, the learned Sessions Judge also dismissed the revision petition vide order dated 08.09.2023. Feeling aggrieved against the aforesaid orders passed by the learned trial Court as well as the revisional Court, the present petition has been filed under Section 482 Cr.P.C. seeking quashing of the aforesaid orders.

3. Learned counsel for the petitioner has assailed the impugned orders primarily on the ground that the petitioner has been falsely implicated despite the fact that his role in the entire transaction was confined merely to that of an attesting witness to the sale deed dated 11.04.2011. It has been contended that a bare perusal of the sale deed would show that the petitioner had not signed the document in the capacity of a property dealer or in any other representative capacity and there is no material on record to suggest that he derived any benefit from the transaction. In support of the said contention, reliance has been placed upon the definition of the term “*attested*” as contained in Section 3 of the Transfer of Property Act, which provides that an instrument shall be deemed to be attested by two or more



witnesses, each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, and each of such witnesses has signed the instrument in the presence of the executant. It has thus been argued that attestation merely signifies witnessing the execution of a document and does not bind the attesting witness to the contents thereof, nor does it create any estoppel or imply consent to the transaction. According to learned counsel, the petitioner had merely appended his signatures as an attesting witness and, therefore, no criminal liability can be fastened upon him on that basis alone.

4. Learned counsel for the petitioner has further placed reliance upon the judgment of the Hon'ble Supreme Court in *M. Srikanth v. State of Telangana and another, (2019) 10 SCC 373*, to contend that an attesting witness to a sale deed cannot be prosecuted in the absence of any specific allegation or material indicating his involvement in the commission of the alleged offence. It has been argued that in the present case, neither the FIR nor the material collected during investigation discloses any allegation that the petitioner had impersonated anyone, facilitated impersonation, or knowingly participated in any fraudulent act. Rather, the complainant herself admitted in the FIR that prior to purchasing the property, she had verified the original sale deed of her vendor and only thereafter proceeded with the transaction. It has been submitted that the dispute arose only in the year 2015, nearly four years after execution of the sale deed, when a third party raised a competing claim over the property. Therefore, it cannot be inferred



that at the time of execution of the sale deed, the petitioner had any prior knowledge regarding any defect in title or alleged fraud. It has further been contended that the present dispute is essentially civil in nature arising out of title discrepancies in the revenue record, but the same has been given a criminal colour only to harass the petitioner and to pressurize him. Learned counsel submits that no commission or monetary benefit was ever paid to the petitioner and there is nothing on record to establish that he was functioning as a property dealer in the transaction. It has also been argued that despite the liberty granted by this Court vide order dated 27.07.2022 to raise all pleas at the stage of framing of charge, the learned trial Court dismissed the petitioner's application for discharge in a mechanical and summary manner without properly appreciating the material on record. On these grounds, it has been prayed that the impugned orders passed by the learned trial Court as well as the revisional Court be set aside and the petitioner be discharged from the present case. Initially, respondent No.2-complainant appeared through learned counsel Mr. Rajiv K. Bhatia, Advocate, and filed a detailed reply opposing the present petition. In the said reply, it was specifically averred that the petitioner was not merely an innocent attesting witness, rather he had actively connived with co-accused namely Gurmukh Singh Lambardar (since deceased), Pritpal Kaur, Avtar Singh, Inderdeep Singh, Sandeep Singh, Surjit Singh and Satwinder Singh in preparing forged and fabricated documents and facilitating the fraudulent sale transaction. It was alleged that the accused persons had impersonated Anil Kumar Syal before the office of the Sub Registrar, Ludhiana and thereafter sold the property to respondent No.2-complainant. It was further



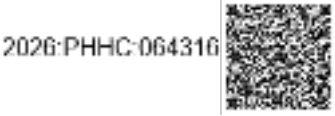
pleaded that the petitioner was working as a property dealer/mediator and it was he who had struck the deal between the complainant and accused Pritpal Kaur. The complainant further asserted that the petitioner remained present at the time of registration of the sale deed and appended his signatures as a witness despite being fully aware of the fraudulent transaction. It was also averred that the petitioner himself got the mutation sanctioned in favour of the complainant, which was subsequently cancelled by the competent authority, and despite having knowledge of these material facts, he concealed the same from the complainant and actively participated in cheating her. Thereafter, respondent No.2 stopped appearing in the matter. However, a rejoinder was filed on behalf of the present petitioner, wherein he reiterated the stand already taken in the petition and denied the allegations levelled against him.

5. Per contra, learned State counsel has also opposed the present petition and adopted the submissions which were earlier raised by respondent No.2 in the reply. It has been argued that there are specific allegations against him showing his active involvement in the entire transaction. Learned State counsel submits that the petitioner acted as a property dealer/mediator, facilitated the transaction between the complainant and the main accused, remained present at the time of execution and registration of the sale deed, and thereafter also played an active role in getting the mutation sanctioned in favour of the complainant, which was later cancelled. It has been argued that the fraudulent intention existed from the very inception and the petitioner, in connivance with the principal accused, actively participated in the commission of the offence. Therefore, it



has been contended that no case for interference in the impugned orders is made out.

6. This Court has considered the rival submissions and finds no merit in the present petition. The reliance placed by learned counsel for the petitioner upon the judgment of the Hon'ble Supreme Court in *M. Srikanth's case (supra)* is misplaced and distinguishable on facts. There can be no dispute with the proposition that mere attestation of a document ordinarily means that an instrument has been signed by two or more witnesses who have seen the executant sign the document or have received acknowledgment of such signature from the executant and have signed the instrument in his presence. Such attestation by itself may not always fasten criminal liability. However, in the present case, the allegations against the petitioner travel much beyond the mere act of attestation. There are specific allegations that the petitioner was acting as a property dealer/mediator, that he facilitated the transaction between the complainant and the principal accused, remained present throughout the execution of the sale transaction and also played an active role in getting the mutation sanctioned in favour of the complainant, which was subsequently cancelled. The allegations further indicate that the fraud was not accidental or subsequent in nature, but existed from the very inception of the transaction and the petitioner is alleged to have acted in connivance with the co-accused in executing the fraudulent transaction. At the stage of framing of charge/discharge, the Court is only required to examine whether a *prima facie* case is made out on the basis of the material available on record. A meticulous appreciation of evidence is not required at this stage. Whether the petitioner actually had knowledge of



the fraud, whether he intentionally participated in the alleged conspiracy and whether he derived any benefit from the transaction are all matters which can only be adjudicated upon during trial after evidence is led by the parties.

7. In view of the specific allegations levelled against the petitioner and the material collected during investigation, this Court does not find any illegality or perversity in the orders passed by the learned trial Court as well as the revisional Court declining discharge of the petitioner. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. All pending applications, if any, also stand disposed of.

28.04.2026

Anu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(MANDEEP PANNU)
JUDGE