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AT CHANDIGARH**

**CRM-M-24558-2025 (O&M)
Date of decision: 07.07.2025**

Malkiat Singh and others

... Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akhil Dadwal, Advocate for the petitioners.

Mr. Subhash Godara, Addl.A.G Punjab

HARPREET SINGH BRAR, J. (ORAL)

CRM-25128-2025

The present application has been preferred under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS) seeking to implead the complainant as respondent No.2 in the main petition.

For the reasons mentioned in the application, the same is allowed and the complainant is impleaded as respondent No.2 in the main petition.

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1. The petitioners have approached this Court by way of filing the present petition under Section 528 of BNSS for quashing of the impugned FIR bearing no.129 dated 29.06.2023 under Sections 420, 465, 468, 471, of Indian Penal Code, 1860 (hereinafter 'IPC') registered at Police Station Mukerian,



District Hoshiarpur (Annexure P-5), and the Final Report dated 17.10.2024 (Annexure P-6) filed under Section 193 BNSS as well as all subsequent proceedings arising therefrom.

2. Succinctly, the facts of the case, as alleged, are that the petitioners had fraudulently transferred approximately 24 kanals of land belonging to the Sheela Devi Memorial Educational Trust (hereinafter 'the Trust') and obtained loans on the same by fabricating resolutions and manipulating revenue records. Consequently, the complainant submitted a written representation bearing No.2296-SSP dated 08.12.2022 to the Senior Superintendent of Police, Hoshiarpur, reporting the same. However, on 10.12.2022, an understanding was purportedly arrived at in the office of DSP, Mukerian, whereby, petitioners undertook to repay the loan amount availed against the Trust's land within a period of 15 days as well as to obtain a No Due Certificate in this regard, from the Indian Overseas Bank. Further, petitioner No.1 sold one *kill*a of land to a third party, namely Hardev Singh, with an assurance that the same would be transferred back to the complainant within four months. In spite of the entering into the compromise dated 10.12.2022 (Annexure P-4), the petitioners failed to honour its terms.

3. Learned counsel for the petitioners *inter alia* contends that the present dispute is purely civil in nature and criminal prosecution has only been initiated to harass the petitioners. In fact, a perusal of FIR (*supra*) would indicate that no cognizable offence has been made out against the petitioners. He further submits that no forensic evidence has been brought to the fore, to support the allegations of forgery and establish *mala fide* on part of the



petitioners. Moreover, the compromise (Annexure P-4) has been partially complied with, which reflects good faith on part of the petitioners. Further still, the Deputy Commissioner, Hoshiarpur passed an order dated 21.01.2022 (Annexure P-7) prohibiting land transaction in 11 villages due to acquisition plans of the National Highway Authority of India. As such, the failure of the petitioners to transfer the disputed land is not intentional, but barred by administrative action. There is a delay of 01 year in registration of FIR (*supra*) for dishonour of the terms and conditions of the compromise (Annexure P-4), however, the execution of the same has been made impossible by the embargo placed upon transfer of land by the district administration. Lastly, clause 11 of the Memorandum of Understanding dated 09.11.2021 (Annexure P-1) between petitioners No.1 to 3 and the complainant mandates arbitration for any disputes that may arise between them, making the criminal prosecution non-maintainable.

4. *Per contra*, learned State counsel submits that an agreement was entered into between the parties i.e. compromise dated 10.12.2022 (Annexure P-4) and the initial complaint was closed on the same basis. However, the petitioners have failed to comply with the terms of the same. He further submits that the probable defence of the petitioners cannot be appreciated at this stage.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court does not find it proper to adjudicate upon disputed questions of fact while the case is pending consideration before the learned trial Court. The probable defence raised by the



petitioners is required to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and interference by this Court at this stage shall be thoroughly unwarranted.

6. A two Judge bench of the Hon'ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

7. A two Judge bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

Furthermore, in ***Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***, a two



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Judge bench of the Hon'ble Supreme Court, speaking through Justice Adarsh Kumar Goel, made the following observations:

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

9. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

10. However, nothing observed herein shall be construed as expression of an opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

07.07.2025
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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No