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

**CRM-M-22533-2025  
DECIDED ON: 08.05.2025**

**MAJOR SINGH****.....PETITIONER****VERSUS****STATE OF PUNJAB AND OTHERS****.....RESPONDENT****CORAM: HON'BLE MR.SANDEEP MOUDGIL**

Present: Mr. Inderjit Singh, Advocate  
for the petitioner.

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**SANDEEP MOUDGIL, J (ORAL)****1. Prayer**

This petition has been filed under Section 528 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for seeking quashing of the impugned order dated 19.04.2024 (Annexure P-10) passed by Court of Judicial Magistrate, 1 Class, Batala in Criminal Complaint bearing No.10 of 2022 titled as "Major Singh V/s Gurmeet Kaur and others" under Section 420, 406, 340, 506, 34, 120-B of The Indian Penal Code, 1860, Police Station Qadian, Tehsil Batala, District Gurdaspur, whereby respondent no. 2 to 11 have not been summoned to face trial and complaint (Annexure P-1) have been wrongly dismissed and that of impugned judgment dated 01.03.2025 (Annexure P-12) whereby Criminal Revision bearing No.CRR/83/2024 preferred by petitioner have wrongly been dismissed by the Court of Additional Sessions Judge, Gurdaspur being patently illegal, perverse,

suffers from illegalities and cryptic and material irregularities and unsustainable in the eyes of law and liable to be quashed, in the interest of justice.

## 2. Contention

### On behalf of the petitioner

It is the contented on behalf of counsel for the petitioner that the impugned order dated 19.04.2024 (Annexure P-10) passed by the Magistrate suffers from non-application of judicial mind, as the Magistrate failed to duly consider the material evidence placed on record by the petitioner/complainant. The petitioner had specifically sought proceedings against respondents no. 2 to 11 for offences punishable under Sections 420, 406, 340, 506, 34, and 120-B of the Indian Penal Code, 1860. A bare perusal of the criminal complaint (Annexure P-1) clearly reveals that respondents no. 2 to 11 were actively involved in a fraudulent and deceitful conspiracy, whereby they induced the petitioner to part with a substantial sum of money with the dishonest intention of not returning the same. In support of the complaint, the petitioner examined CW2 to CW9, in addition to his own testimony (CW1), thereby placing substantial and corroborative material on record sufficient to initiate criminal proceedings against the said respondents. The complaint (Annexure P-1), read in conjunction with the statements of CW1 to CW9, prima facie establishes that respondents no. 2 to 11 acted in concert to cause wrongful loss to the petitioner and obtained unlawful gain with malafide intent. Despite this, the Trial Court, through the impugned order dated 19.04.2024, erroneously concluded that the dispute is of a civil nature and declined to summon the accused. This finding is legally unsustainable, as the Magistrate, at the stage of inquiry under Section 202 CrPC, is only required to assess whether a prima facie case is made out against the accused persons. The conclusion drawn by the Trial

Court overlooks the settled legal position and the weight of evidence on record, and therefore, the impugned order warrants interference by this Court.

3. Heard learned counsel for the parties.

4. **Analysis**

On perusal of the file it is revealed that the complainant/petitioner has filed the complaint alleging that accused/respondent No.2, who is his wife, along with her family members, has cheated him. The complainant/petitioner has specifically alleged that accused no.1 withdrew an amount of ₹3,50,000/- from their joint savings account using the ATM card and further borrowed approximately ₹1,40,000/- from him on different occasions. It is also alleged that the family members of accused no.1/respondent took money from the complainant/petitioner. However, the complaint is notably silent on any specific act of inducement made by any of the accused persons. For the offence of cheating under Section 420 of the Indian Penal Code to be established, it is essential that there is fraudulent or dishonest inducement, and that such inducement led the complainant to deliver property or do or omit to do an act which he would not have done or omitted to do otherwise. In the present case, these essential ingredients are conspicuously absent. The allegations made by the complainant/petitioner, at best, indicate a financial dispute arising from personal relations, and appear to be of a civil nature. If any money has been wrongfully withdrawn or borrowed, the appropriate legal remedy available to the complainant lies in filing a civil suit for recovery of the said amount. As such, the criminal complaint filed by the complainant does not disclose the commission of any cognizable offence and is therefore not maintainable in law.

Further, reliance can be placed upon the judgment passed by the Supreme Court in '*Hridaya Ranjan Prasad Verma Vs. State of Bihar (2000) 4*

*SCC 168*, wherein the Apex Court interpreted Sections 415 and 420 of IPC and hold that fraudulent and dishonest intention is a precondition to constitute the offence of cheating the relevant extract from the judgment are as follows:-

*"14. On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest. 15. In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed." ....(emphasis supplied)*

5. **Conclusion**

This Court is of the considered opinion that, for the offence under Section 420 IPC to be made out against the petitioner, it must be established that the accused harbored a fraudulent or deceitful intention from the very beginning of the transaction. In the present matter, there is neither any evidence of inducement

against the respondents/accused nor has the petitioner produced any document to substantiate his allegation of having been cheated or defrauded. The dispute appears to stem from family relations and is essentially civil in nature. The petitioner has alternative remedies available under civil law to recover any money allegedly due. As per the fundamental principle governing the summoning of an accused in a criminal case, the Court must be satisfied, at least prima facie, that a criminal liability is made out. In this case, no such liability is evident. Consequently, the Trial Court has rightly refused to summon the accused and has dismissed the petitioner's complaint.

In view of the above discussion, this Court finds no reason for interfering in the well reasoned orders of the Trial Court dated 19.04.2024 (Annexure P-10) and 01.03.2025 (Annexure P-12), hence, the instant petition is hereby dismissed.

**(SANDEEP MOUDGIL)**  
**JUDGE**

**08.05.2025**  
*anuradha (a)*

*Whether speaking/reasoned*      *Yes/No*  
*Whether reportable*              *Yes/No*