2025:PHHC:128529

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6979-2024

Date of decision:17.09.2025

Sumit Sharma and another

....Petitioners

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rohit Madan, Advocate for the petitioner (through Video Conference).

Mr. Vishal Singh, AAG Haryana.

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SUMEET GOEL, J.

1. The *petition in hand* has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') seeking quashing of FIR No.2636 dated 14.12.2023 registered at Police Station Shivaji Nagar, Gurugram for offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 of the IPC and all consequential proceedings arising therefrom, qua the petitioners.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:

(i) The petitioners, who are permanent residents of Kolkata are residing in Kolkata for more than 45 years. They were former Directors of Dee Kartavya Finance Limited and had been arraigned as accused in two cases under Section 138 of the Negotiable Instruments Act, 1881, i.e. NACT/17893/2020 and NACT/17281/2020, pending before the learned JMFC, Gurugram, filed by Moneywise Financial Services Pvt. Ltd.

(ii) In compliance with the order dated 18.09.2023 in the aforesaid cases, the petitioners appeared before the learned trial Court on 14.12.2023 and furnished personal bonds to the sum of ₹50,000/- each. However, their local counsel engaged by them, counselled them to arrange two local sureties to secure the bail. Being outsiders, the petitioners could not arrange sureties themselves and upon the assurance of their counsel, they relied upon two persons, introduced by their counsel, namely Hari Singh and Yashpal Singh.

(iii) Thereafter, the bail bonds alongwith the Aadhaar cards of the said sureties were furnished before the learned trial Court. However, upon verification and scrutiny, the said documents were found to be forged. The learned trial Court, vide order dated 14.12.2023 (Annexure P-2), held that the sureties disclosed they had no personal acquaintance with the petitioners and that the documents were prepared by one Santosh. Thereafter, the learned trial Court, while taking cognizance of the forgery, directed action against the aforesaid two sureties and directed the concerned SHO under Section 156(3) Cr.P.C. to investigate the matter. Concurrently, the learned trial Court permitted the petitioners to furnish fresh personal bonds.

(iv) Based on these set of allegations, the impugned FIR was registered against the sureties as well as the petitioners under Sections 120-B, 419, 420, 467, 468 and 471 IPC. Thereafter, the investigation was undertaken and challan (chargesheet) was presented by the Police.

(v) It is in the above factual backdrop, the *petition in hand* has come up for adjudication before this Court.

3. Learned counsel for the petitioners has iterated that the petitioners have neither any acquaintance with sureties namely Hari Singh

and Yashpal Singh and nor any role in the preparation of forged Aadhaar cards. Learned counsel has further iterated that no benefit can be derived by the petitioners from the forged documents since their bail applications were rejected. Learned counsel has further submitted that the learned trial Court itself recorded the *bona fides* of the petitioners by accepting their ignorance of the forgery and nowhere observed that the petitioners' have furnished forged documents of their own. Learned counsel has further submitted that the charge-sheet does not disclose any link or conspiracy between the petitioners and the alleged fake sureties. Learned counsel has asserted that the FIR against the petitioners is a clear abuse of process of law and continuation of proceedings would result in miscarriage of justice. On the basis of aforesaid submissions, the grant of petition in hand, is entreated for.

4. The State of Haryana, upon being called upon, has filed reply dated 30.08.2024 by way of affidavit of Surinder Singh, HPS, Assistant Commissioner of Police, City, Gurugram and status report dated 09.05.2025 by way of affidavit of Abhilaksh Joshi, HPS, Assistant Commissioner of Police, City, Gurugram. Learned State counsel, while raising submissions in tandem with the said reply and status report, has opposed the petition by arguing that the forged documents were submitted by the petitioners in relation to their bail and hence they cannot escape the liability. Learned counsel has iterated that the conspiracy can be inferred from the conduct of parties and does not always require direct evidence. It has been further argued that the plea relating to defence of ignorance and reliance upon the counsel; is a matter of trial and cannot be a ground for quashing at this stage. On the strength of these submissions, the dismissal of the instant petition is prayed for.

5. I have heard learned counsel for the parties and perused the record carefully.

6. The enduring plight of an accused person, particularly one compelled to traverse vast distances to appear in criminal proceedings and satisfy conditions of bail, remains a regrettable lacuna in our legal system. This unfortunate state of affairs is exacerbated by the archaic practice of courts demanding *'local surety(s)'* as a prerequisite for release of bail. This practice, a vestige of a bygone era, regrettably persists in many parts of the country, despite being subjected to judicial opprobrium for decades. The Hon'ble Supreme Court in a judgment titled as ***Moti Ram vs. State of Rajasthan, 1978(4) SCC 47,*** rendered as far as back in the year 1978, unequivocally condemned this practice, relevant whereof reads as under:

> *"To add insult to injury, the magistrate has demanded sureties from his own district. (We assume the allegation in the petition). What is a Malayalee, Kannadiga, Tamilian or Andhra to do if arrested for alleged misappropriation or them or criminal trespass in Bastar , Port Blair, PortBlair Pahalgaam or Chandni Chowk? He cannot have sureties owning properties in these distant places. He may not know any one there and might have come in a batch or to seek a job or in a morcha . Judicial disruption of Indian unity is surest achieved by such provincial allergies. What law prescribes sureties from outside or non- regional linguistic, some times legalistic. applications? What law prescribes the geographical discrimination implicit in asking for sureties from the court district? This tendency takes many forms, sometimes, geographic , sometimes linguistic, some times legalistic. Art 14 protects all Indians qua Indians, within the territory of India. Art 350 sanctions representation to any authority. including a court, for redress of grievances in any language used in the Union of India . Equality before the law implies that even a vakalat or affirmation made in any State language according to the law in that State must be accepted everywhere in the territory of India save where a valid legislation to the contrary exists. Otherwise, an adivasi will be unfree in Free India, and likewise many other minorities. This divagation has become necessary to still the judicial beginnings, and to inhibit the*

> *process of making Indians aliens in their own homeland. Swaraj is made of united stuff."*

6.1. Mandating furnishing of a *'local surety'* from an individual who is a native or resident of another district/State is not merely a logistical inconvenience; it is a profound assault on his fundamental rights and tantamount to imposition of an unduly onerous condition, which is, in itself, a *de facto* denial of the right to bail — which ought to be accompanied by a practical means of securing it, not by insurmountable hurdles. It creates an unnecessary dichotomy, where an individual from one part of the Country is treated differently from another, simply by the dint of his or her residence.

6.2. This pervasive malady of demanding local sureties was once again brought to the fore and deprecated by the Hon'ble Supreme Court in ***Re Policy Strategy for Grant of Bail, 2024(10) SCC 685,*** relevant whereof reads thus:

> *"xxxxxxxxxxx With a view to ameliorate the problems a number of directions are sought. We have examined the directions which we reproduce hereinafter with certain modification:*
>
> *xxx xxx xxx xxx*
>
> *7) One of the reasons which delays the release of the accused/convicts is the insistence upon surety. It is suggested that in such cases, the courts may not impose the condition of local surety."*

Ergo, this continued insistence on *'local surety(s)'* is a judicial anachronism that flies in the face of Constitutional principles and the dictates of common sense. It inevitably engenders an infinite ingress of action(s), undertaken by a person to secure '*local surety*' by all and any means to satisfy an illogical tenet of practice. It is a practice that needs to be consigned to oblivion. The Courts of law must not be held captive by a mechanical and archaic adherence to prevalent practices.

6.3. This Court is not oblivious to the fact that this anachronistic practice often prompts rise to precarious and, at times, unethical arrangements. In a significant number of cases, the accused, who is a stranger to the jurisdiction, is compelled to procure a local surety through local counsel, leading to a situation where the surety is a complete stranger to the accused. This is a travesty of justice, for the very purpose of a surety — to ensure the accused's appearance in Court — is subverted when the bond is based on a transactional arrangement rather than procedural acquaintance of trust.

6.4. It is in this factual *milieu,* prevalent at the grass-root level, that this Court ought to consider the *petition in hand,* as, it is a well-established and universally acknowledged judicial principle that a Court ought not to adjudicate from an ivory tower and that the judicial decisions must resonate with the practical realities of Society rather than remain shackled to abstract interpretation(s) of legal doctrine(s). The Courts, indubitably hold a dual responsibility; to uphold rule of law as also to ensure that justice remains relevant and responsive to the dynamic conditions of Society. Application of the principles of adjudication coalesced with percipience towards the pragmatic and functional societal realities are of particular import in such cases. An adjudication without pragmatic lens runs the risk of prioritizing procedural/technical formalities over the substantive justice, which could eventuate in dilution of justice. The Courts, especially while dealing with such issues, ought to take cognizance of the pragmatic exigencies of Society in shaping its decision(s) in way(s) that foster societal progression. Public trust; is indubitably rooted in the belief; that the Courts understand, respect and take into account the societal reality(s).

7. Before delving into factual *milieu*, of the *petition in hand* it would be appropriate to refer herein to the case law germane to the issue(s) in hand.

7.1. In a judgment titled as ***State of Haryana and others vs. Ch. Bhajan Lal and ors. 1991(1) RCR (Criminal) 383***, the Hon'ble Supreme Court has held thus:

> *"107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> > *1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
> >
> > *4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
> >
> > *5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
> >
> > *6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a*

> *criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
>
> *7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceedings is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.*
>
> *108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice. "*

7.2. More recently, the Hon'ble Supreme Court in a judgment titled as ***Mahmood Ali &ors. Vs. State of U.P. & Ors. 2023 LiveLaw(SC) 613,*** has held as under:-

> *"12. xxxxxxxx. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation……."*

8. Reverting to the facts of the case in hand, the undisputed position is that the petitioners (herein) are residents of Kolkata, who upon being summoned by the concerned Judicial Magistrate at Gurugram, sought to enter appearance in proceedings initiated against them under Section 138 of NIA. The crux of the FIR and the investigation undertaken therein

against the petitioners (herein) is that when they were required to furnish bail-bonds/surety in the proceedings under Section 138 of NIA, the co-accused namely Hari Singh and Yashpal Singh (who came forward to stand surety for them) were found to be in possession of fake documents. The order dated 14.12.2023 passed by the concerned Judicial Magistrate clearly reflects that the sureties themselves admitted to having no personal acquaintance with the petitioners. Furthermore, the alleged forgery was attributed to a third person, namely Santosh. Besides, the learned trial Court has not recorded any finding(s) with regard to the fact that the petitioners have acted with any fraudulent intent. On the contrary, the learned trial Court has permitted the petitioners to furnish fresh bonds, thereby acknowledging *their bona fides*. Taking into consideration these attending circumstances emerging from the records of the case, it is indubitably clear that the petitioners (herein) cannot be said to be complicit in the offence(s), forming the subject matter of the FIR in question. The offences under Sections 419 and 420 of the IPC (Cheating & Dishonest Inducement); Sections 467 & 468 of the IPC (Forgery with intent to Cheat); and Section 471 of the IPC (Using forged documents as genuine), are predicated upon the existence of a culpable mental state, or *mens rea*, as an indispensable ingredient — which ought to be demonstrably established for a successful prosecution — and is not merely a peripheral consideration. A perusal of the record unequivocally reveals a conspicuous absence of any *mens rea* that could be legitimately imputed to the petitioners. The factual matrix, as delineated in the record, is utterly devoid of any *indica* of a dishonest or fraudulent intent on part of the petitioners — in absence whereof, the very foundation of the allegations crumbles. Similarly, an offence under Section

120-B of the IPC (Criminal Conspiracy) mandates a *'prior meeting of minds'* or a *'pre-meditated agreement'* to perpetrate a criminal act. However, upon a careful consideration of the nature of the allegations, the attendant circumstances, and the specific roles ascribed to the petitioners, it becomes patently clear that they cannot be held complicit in the commission of the offences enumerated in the FIR in question. The circumstances on record, far from establishing a conspiratorial nexus, point towards a complete disconnect between the petitioners' actions and any pre-arranged unlawful purpose. Indeed, the finding(s) recorded by the learned trial Court, permitting the petitioners to furnish fresh personal bonds, is in itself a powerful judicial imprimatur that the culpability of the petitioners is, at best, tenuous.

The material which has come on record does not indicate any nexus between the petitioners and the sureties beyond their introduction through local counsel. It is trite law that where the allegations in the FIR and the accompanying material do not disclose the ingredients of any offence, the Court would be justified in invoking its inherent powers under Section 482 Cr.P.C. to prevent abuse of the process of law. In the present case, the petitioners have not gained any benefit from the forged documents; they were permitted to furnish fresh personal bonds and the *factum* of the learned trial Court itself not attributing any culpability to the petitioners is, in essence, a *sub silentio* acknowledgment of the tenuousness of the prosecution's case against the petitioners. The factual *milieu* of the case in hand does not reflect that the petitioners (herein) were in any way involved with the preparation of the said forged/fake documents. The petitioners are sought to be prosecuted, primarily, for the reason that the said co-accused

(who are stated to be fake sureties) have appeared in Court as surety(s) for the petitioners (herein).

9. A perusal of the record and the factual matrix of the present case does reflect that it would not be in the interest of justice to continue with the proceedings emanating from the impugned FIR qua the petitioners (herein).

10. In view of the prevenient ratiocination, it is ordained thus:

(i) The impugned FIR No.2636 dated 14.12.2023 registered at Police Station Shivaji Nagar, Gurugram for offences punishable under Sections 120-B, 419, 420, 467, 468 and 471 of the IPC and all consequential proceedings arising therefrom are quashed qua the petitioners.

(ii) Nothing said hereinabove shall be construed as an expression of opinion upon the merits of the case regarding the co-accused/non-petitioners and it is clarified that proceedings against the said co-accused shall continue in accordance with law.

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

(SUMEET GOEL)
JUDGE

September 17, 2025
Ajay

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