



*Saraswati Poddar*  
*Senior Associate*

## SUPREME COURT ON SIMPLE BREACH OF CONTRACT

### A. Introduction

Supreme Court (“**SC**”), in *Sarabjit Kaur* case,<sup>1</sup> on March 1, 2023, held that a simple breach of contract does not qualify as ‘cheating’ for purpose of criminal prosecution.

### Facts

1. Sarabjit Kaur (“**Sarabjit**”) entered into an agreement to purchase a plot of land from Malkit Kaur (“**Malkit**”) in 2013.
2. On the basis of the agreement, Sarabjit entered into an Agreement of Sale (“**AoS**”) with another person by the name Sarabjit Kaur (“**SK**”), wife of Darshan Singh (“**Darshan**”) on November 18, 2013. The date of execution of Sale Deed (“**SD**”) was fixed as June 25, 2014.
3. In the AoS, it was clearly mentioned that Sarabjit is not owner yet. She received a sum of Rs. 5,00,000 as earnest money.
4. Execution of SD date was subsequently extended to December 12, 2014, on receipt of additional amount of Rs. 75,000.
5. On September 30, 2015, Darshan, husband of SK, filed a complaint over the AoS, against certain property dealers. The complaint mentioned two other transactions made by Darshan, and that he was seeking a recovery of money from the property dealers.
6. On May 18, 2016, the complaint was dismissed holding that no criminal offence was made out and Darshan shall be at liberty to file civil suit as the dispute was of civil nature. One more complaint was filed by Darshan against Sarabjit which was also dismissed.
7. On June 15, 2017, Darshan filed the 3<sup>rd</sup> complaint against Sarabjit, based on which first information report (“**FIR**”) was registered under Section 420<sup>2</sup>, 120-B<sup>3</sup> and 506<sup>4</sup> of Indian Penal Code, 1860.
8. Sarabjit moved the Punjab and Haryana High Court (“**HC**”) seeking quash of FIR, which was dismissed.
9. Sarabjit challenged the HC Order before the Supreme Court (“**SC**”).

### B. SC Judgment & Reasoning:

1. It is apparent from the records that Darshan’s intention was simply to pressure Sarabjit and involve her in a criminal case to recover his money and no allegation of cheating was made out.
2. However, there is no mention of Darshan being ready and willing to register the SD. Neither Darshan nor the vendee took any steps to initiate civil proceedings for the execution of the SD based on the AoS.

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<sup>1</sup>*Sarabjit Kaur v. The State of Punjab & Anr* (01.03.2023 -SC): MANU/SC/0193/2023.

<sup>2</sup> Cheating and dishonestly inducing delivery of property.

<sup>3</sup> Punishment of criminal conspiracy.

<sup>4</sup> Punishment for criminal intimidation.

3. There is no proof that the Darshan or the vendee issued any notice to Sarabjit regarding the registration of the SD before or immediately after the last date for execution i.e., December 12, 2014. No civil proceedings were initiated either.

4. SC set aside the HC order and allowed the appeal holding:<sup>5</sup>

*“A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up promise will not be enough to initiate criminal proceedings.”*

5. It further observed that:

*“The entire idea seems to be to convert a civil dispute into criminal and put pressure on the appellant (Sarabjit) for return of the amount allegedly paid. The criminal Courts are not meant to be used for settling scores or pressurise parties to settle civil disputes. Wherever ingredients of criminal offences are made out, criminal courts have to take cognizance. The complaint in question on the basis of which F.I.R. was registered was filed nearly three years after the last date fixed for registration of the sale deed. Allowing the proceedings to continue would be an abuse of process of the Court.”*

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<sup>5</sup> Paragraph 13 of the judgment.