

GAHC020003142022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl. Pet./12/2022

DEEPAK CHAND AND ANR
S/O VARINDER CHAND,
R/O VILLAGE- PALI, P.O BHOGPUR,
P.S RANI POKHRI, TEHSIL-RISHIKESH,
DIST. DEHRADUN, UTTARAKHAND

2: PREETI CHAND

W/O. SHRI. G.P. CHAND

R/O. RANI POKHRI
TEHSIL-RISHIKESH

DIST. DEHRADUN
UTTARAKHAN

VERSUS

TOYEKALI SEMA
PROPRIETOR OF M/S. T.S ENTERPRISES,
H/NO. 26, NOTUN BOSTI ROAD,
DIMAPUR, NAGALAND

Advocate for the Petitioner : P SURIEN
PAKINRICHAPBO

Advocate for the Respondent : C. T. JAMIR, SR. ADV
ALIBA OZUKUM
N. MOZHUI
N. KIRE
N. RUPREO
PETER MERE

Linked Case : CrI. Pet./11/2022

SHRI. DEEPAK CHAND (ACCUSED) AND 2 ORS
S/O VARINDER CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

2: SHRI. G.P CHAND (ACCUSED)
S/O VARINDER CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

3: SMTI. PREETI CHAND (ACCUSED)
S/O SHRI. G.P. CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND
VERSUS

SHRI. BOKAVI CHISHI
PROPRIETOR OF M/S BOKAVI CHISHI
R/O H.NO. 147
KHEHOKHU VILLAGE
NEAR N.B. COLLEGE
SUB DIVISION
KUHUBOTO
DIMAPUR NAGALAND

Advocate for : P SURIEN
Advocate for : C. T. JAMIR
SR. ADV appearing for SHRI. BOKAVI CHISHI

Linked Case : Crl. Pet./13/2022

SHRI. ABHIJEET CHAND (ACCUSED) AND 6 ORS
S/O LT. NARENDRA CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

2: SHRI. DEEPAK CHAND (ACCUSED)
S/O VARINDER CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

3: SHRI. DHANANJAY CHAND
S/O LT. NARENDRA CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

4: SHRI. DEVENDRA CHAND (ACCUSED)
S/O SHRI. SHYAM CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

5: SHRI. G.P. CHAND (ACCUSED)
S/O VARINDER CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

6: SMTI. PREETI CHAND (ACCUSED)
W/O G.P CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND

7: SMTI. SONI CHAND (ACCUSED)
W/O DEEPAK CHAND
R/O VILLAGE-PALI
P.O. BHOGPUR
P.S. RANI POKHRI
TEHSIL-RISHIKESH
DIST-DEHRADUN
UTTARAKHAND
VERSUS

SMTI. KEN CHISHI
PROPRIETOR OF M/S ALLIED TRADERS
M/S P.S. ENTERPRISES AND M/S INTERNATIONAL TRADING
COMPANY
R/O H.NO. 26
SEMA KHEL
NOTUN BOSTI DIMAPUR NAGALAND

Advocate for : P SURIEN
Advocate for : C. T. JAMIR
SR. ADV appearing for SMTI. KEN CHISHI

Date of Hearing & Judgment : **20.06.2024**

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO
JUDGMENT & ORDER (ORAL)

This order will dispose of all the three criminal petitions

since the issues involved are similar and the parties are common as well.

[2.] All the three (3) Criminal Petitions have been filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 (CrPC) for quashing of the concerned Criminal Complaint Cases filed against them. The petitioners in CrI.Pet./13/2022 have sought for quashing of CR Case No. 7/2021, the petitioners in CrI.Pet./11/2022 have sought for quashing CR Case No. 8/2021 and the petitioners in CrI.Pet./12/2022 have for quashing CR Case No. 3/2021.

[3.] This Court, *vide* Order dated 24.06.2022, while issuing notice to the respondents had passed an interim order staying further proceedings of the CR Cases pending before the Court concerned till the next returnable date of the notice. The interim order has continued since then till date. This Court also requisitioned the Case Record of the Criminal Ccomplaint cases and the same has been transmitted to this Court.

[4.] It is the case of the complainants before the Court of learned Chief Judicial Magistrate (CJM), Dimapur, Nagaland, in respect of CR Case No. 3/2021 and before the Court of learned CJM, Kohima in respect of CR Case Nos.7 and 8/2021 that a certain agreement/understanding was reached between the complainants and the accused persons for supply of a certain amount of *basmati*

rice at the agreed price and within a time-frame as agreed upon. One Shri Rajiv Chopra, who is closely associated with the complainants in running their respective business had introduced the complainants to the accused persons and pursuant thereto, it was agreed upon by the parties that the accused persons will supply the *basmati* rice to the Nagaland Police Battalion stationed in Delhi at the agreed price. The complainants initially paid a certain amount of money as an advance but on the insistence of the accused persons, the balance amount was also paid to them. Despite full payment for the *basmati* rice to be supplied, the accused persons failed to supply the same as was agreed. Upon their demand for the supply of the rice or for a refund of the money, the accused persons not only threatened their acquaintance, Shri Rajiv Chopra but also the complainants themselves. The legal notice served upon the accused persons were also refused to be received by them and therefore, the complainants having no option, filed the complaint before the Court of learned CJM, Dimapur, and Kohima under Section 200 of the CrPC.

[5.] The case of the accused persons who have filed the instant Criminal Petitions under Section 482 of the CrPC, on the other hand, is that they have no agreement or business dealings with the complainants in any manner and the allegation of the complainants that they are to supply *basmati* rice to the Police Battalion of Nagaland stationed in Delhi is totally denied and claimed to be without any basis by them. According to them, they have neither

visited the State of Nagaland nor are they acquainted with the complainants. The complaints therefore being totally frivolous and without any basis, the same should be interfered with by this Court by quashing the entire criminal proceedings initiated against them.

[6.] Mr. P. Surien, learned counsel for the petitioners, submits that according to the complainants, they have been led to believe by the accused persons that *basmati* rice is being cultivated in their land and therefore, the complainants have ordered for its supply. The learned counsel submits that neither the accused persons are cultivating *basmati* rice on their land nor is *basmati* rice cultivated in Dehradun, the place where the accused persons belong to. The learned counsel submits that none of the accused persons are in the business of supplying foodgrains or other construction materials etc. except for Shri G.P. Chand, who runs the business of supplying construction materials. Therefore, the accusation made against the accused persons are wholly frivolous and misconceived and for which, the entire criminal proceedings should be interfered with by this Court.

[7.] Mr. P. Surien, learned counsel, however, admits that the amount said to have been paid to the accused persons have been otherwise received by them but the same is not towards the cost of *basmati* rice as claimed by the complainant but the payment had been received through Shri Rajiv Chopra towards re-payment of his debt to Shri G.P. Chand for the supply of construction materials. He

submits that Shri Rajiv Chopra and the accused persons are all from Dehradun and in fact, they are neighbours. He submits that there was some argument between Shri Rajiv Chopra and the accused person, Shri Deepak Chand, over a right of passage over a certain portion of land and in the midst of the heated exchange that took place between them, Shri Rajiv Chopra clearly admitted that *basmati* rice are not cultivated in Dehradun. The audio recording of the statement of Shri Rajiv Chopra is also available with the accused persons and has been submitted to this Court in their additional affidavit.

[8.] Mr. P. Surien, learned counsel further submits that upon receiving a criminal complaint under Section 200 of CrPC, the Court concerned is required to follow the procedure of Section 202 CrPC by which a preliminary investigation is to be conducted either by the Court itself or by a Police Officer under such terms and conditions as may be provided for. However, the learned Trial Court in Dimapur straightaway proceeded to issue summons to the accused persons concerned while the learned Trial Court in Kohima issued a warrant of arrest upon the accused persons. Against the warrant of arrest, the accused persons approached the Sessions' Court in Kohima and during the pendency of their application, the learned Trial Court withdrew the warrant of arrest issued by it and granted *ad interim* bail to the accused persons. The accused persons as petitioners approached this Court through the instant criminal petitions and this Court, *vide* Order dated 24.06.2022, passed an interim order

suspending criminal proceedings.

[9.] The learned counsel submits that even presuming but without admitting that there was an agreement between the parties concerned for supply of *basmati* rice on payment, the case at best can only be a case of civil nature and not a criminal case as being projected by the complainants. He submits that by filing the criminal complaints, the complainants have only sought to harass the accused persons who are settled far away from the State of Nagaland. The learned counsel thus, submits that the criminal complaints and the criminal proceedings being initiated should be quashed by this Court for the ends of justice.

[10.] *Per contra*, Mr. C.T. Jamir, learned senior counsel appearing for the complainants submits that the complainants have indeed been duped by the accused persons by agreeing to supply *basmati* rice at a considered rate. The accused persons demanded for advance payment initially but later on demanded full payment in order to make the supply. The complainants, despite having made full payment for the supply to be made, the accused persons have failed to make any supply which has prompted the complainants to file the criminal complaint before the learned Trial Court.

[11.] The learned senior counsel submits that pursuant to the complaint submitted by the complainants, learned Trial Court, upon being satisfied that there were materials to show that there are

substance in the complaint made by the complainant, initiated the criminal proceedings. Despite being summoned, the accused persons, in the case filed before the learned CJM, Kohima, failed to make any appearance. The complainants are the proprietors of their respective firms who has been dealing with the supply of dry rations to the Nagaland Police as is evident from the reply given to the query made by one of the accused persons through RTI. In this connection, the learned senior counsel draws the attention of this Court to Annexure-F of the additional affidavit filed by the petitioners on 12.10.2022.

[12.] The learned senior counsel further submits that the complainants have also enclosed the Bank Statements in their complaint submitted before the learned CJM, Dimapur and Kohima, which clearly shows that the amount that was asked and given to the accused persons have been debited from their respective Bank accounts and despite the same, the accused persons have failed to make supply as was agreed upon.

[13.] The learned senior counsel submits that there may be some civil dispute between the accused persons and Shri Rajiv Chopra at Dehradun, but that by itself did not cause any hindrance for the learned Trial Court to take cognizance of the criminal complaint submitted by the complainants. He also submits that the present dispute/controversy cannot be considered to be a dispute of civil nature and for which, the criminal proceedings initiated is unwarranted in view of the fact that the act of cheating is a criminal

offence and many a cheating is committed in the course of commercial or money transaction and which has also happened in the instant case. Therefore, the learned senior counsel submits that since the learned Trial Court, *prima facie* is satisfied that there is substance in the criminal complaints submitted by the complainants, the criminal proceedings may be interfered with by this Court in exercise of its inherent powers under Section 482 of the CrPC and that the Investigating Agency should be given a free hand to investigate into the matter.

[14.] The learned senior counsel submits that the accused persons are also not debarred from establishing the fact that they are not involved in any manner as claimed by the complainants by extending its co-operation in the proceedings. He thus, submits that the criminal petitions are without any merit and the same should be dismissed. In support of his submissions, the learned senior counsel has relied upon the following authorities:-

- (i) *Rajesh Bajaj Vs. State of NCT of Delhi*, (1999) 3 SCC 259
- (ii) *Trisuns Chemical Industry Vs. Rajesh Agarwal & Ors.*, (1999) 8 SCC 686
- (iii) *Priti Saraf & Anr. Vs. State of NCT of Delhi & Anr.*, 2021 SCC Online SC 206
- (iv) *Kaptan Singh Vs. State of Uttar Pradesh & Ors.*, (2021) 9 SCC 35
- (v) *Ramveer Upadhyay & Anr. Vs. State of U.P. & Anr.*, 2022 SCC Online SC 484

[15.] I have heard the submissions made by the learned counsels for the rival parties and have perused the materials available on record including the records of the Courts below.

[16.] The complainants as can be seen, being aggrieved with the inaction on the part of the accused persons for not supplying the *basmati* rice as was mutually agreed for certain consideration and despite full payment of the price of the rice to be supplied, filed the criminal complaint under Section 200 of the CrPC before the learned CJM, Dimapur, and the Court of learned CJM, Kohima. On the basis of the complaint submitted before the learned CJM, Dimapur i.e., CR Case No.3/2021, the Complainant Ms. Toyekali Sema, Sh. Manoj Bhasin the sales/purchase representative of M/s TS Enterprise and Shri Rajiv Chopra Manager of the said firm were examined by the Court on oath on 24.02.2021. Similarly the statements of the Complainants and their two (2) common witnesses in CR Case Nos.7 and 8/2021 were recorded on oath on 10.12.2021.

[17.] Thereafter, the learned Courts below, upon considering the statements given by the persons concerned proceeded to issue summons to the accused persons. That despite the summons issued to the accused persons in CR Case No. 3/2021, they failed to appear on several occasions. Consequently, they entered appearance through their appointed counsel on 30.11.2021 and the Court fixed 21.02.2022 for appearance of the accused persons. Both the accused persons failed to appear on the fixed date citing domestic

problems and the Court then fixed another date i.e., 15.03.2022 for their appearance. On 15.03.2022, both the accused persons were present and the Court allowed the application of the accused persons to execute bail bond/PR bond. Thereafter, both the accused persons filed their respective statements and the matter was fixed for evidence before the In-charge *vide* Order dated 15.03.2022. Subsequent thereto, the accused persons approached this Court through the instant criminal petition, being Crl.Pet./12/2022.

[18.] In respect of Criminal Complaint Nos. 7 and 8 of 2021, as already stated earlier, the learned CJM, Kohima, on receiving the complaints, recorded the statements of the Complainants and their two (2) common witnesses on oath on 10.12.2021 and upon being satisfied proceeded to issue summons to the accused persons fixing 16.02.2022 for appearance. By a separate order of the same date, CJM Kohima directed the Officer-in-Charge (OC), North Police Station, Kohima, to register a case as per Section 202 CrPC and inquire into the matter and submit a report on or before 16.02.2022. Thereafter, on 16.02.2022, the Court, on the prayer of the complainant directed the OC, South Police Station, Kohima, to register a case and to submit a report on or before 06.04.2022. On 06.04.2022, upon receiving a detailed report and on the prayer of the IO, the Court issued a non-bailable warrant of arrest against the accused persons fixing 26.05.2022 for production. However, as stated earlier the accused persons had approached the Court of Principal District and Sessions Judge, Kohima, the accused persons

were allowed to go on *ad interim* bail vide order dated 27.05.2022. In the meantime, the accused persons have filed the instant Crl.Pet./11/2022 and Crl.Pet./12/2022 before this Court and an interim order suspending the criminal proceeding have been passed by this Court.

[19.] In order to understand as to what led to the issuance of process to the accused persons by the Court below, the recorded statements of the three (3) complainants may be abstracted below for ready perusal –

Statement of Complainant Toyekali Sema

" My name is Miss. Toyekali Sema and I am the Proprietor of M/S T.S Enterprises having its registered office at H/No. 26, Notun Bosti Road, Dimapur: Nagaland and I am the complainant in this present case as such well conversant with the facts and circumstances of the instant case which I had filed against the accused persons namely (1) Shri. Deepak Chand & (2) Smti. Preeti Chand U/Sec. 420/406/34 of the Indian Penal Code, 1860.

That, I states that being known to the accused Shri. Deepak Chand and during business transactions through myself and through my representatives whom he had shown an agricultural field at his address as given in the cause title of the petition filed by me and further on the promise by him to me to send 12000 Kgs of Basmati Rice $\frac{3}{4}$ (Ponal) within one month time at an agreed rate of Rs. 36.64 per kg totaling a sum of Rs. 4,39,760/- only in the month of

November 2019, I on good faith and belief paid an advance of Rs. 1,50,000/- (Rupees One Lakh and Fifty Thousand) only vide Cheque No. 44611 of Punjab & Sind Bank, Mohankhola Branch, Kohima: Nagaland on 18/11/2019 into the A/c No. 09791000004581 belonging to Smti. Preeti Chand, the accused persons No. 2 (as requested by accused person No. 1 and consented by the accused No. 2) who is also residing at the same address of the accused person No. 1.

That, it is pertinent to mention here that I was further informed/intimated by Shri. Deepak Chand that the quantity and quality of rice as agreed and shown to her and her representatives is ready for delivery only after payment of balance remaining amount by her, as such I through my firm's bank account remitted the balance amount of the deal/agreed amount of Rs. 2,89,760/- into the A/c No. 09791000004581 of Smti. Preeti Chand (as requested by the Shri. Deepak Chand and consented by the accused No. 2) only vide Cheque No. 44625 dated 27/12/2019 of Punjab & Sind Bank, Mohankhola, Kohima: Nagaland.

That, I and my representatives after making the full payment for the purchase of the said rice bags to Shri. Deepak Chand into the bank account of the accused No. 2 had on several occasions requested him to deliver the quantity and quality of rice as contracted/agreed/promised by him to me and also requested Smti. Preeti Chand to retransfer the amount send by me into her account as agreed by her and as asked by Shri. Deepak Chand but all in

vain.

That for the reasons above the accused persons had with common malafide intension cheated me with deceitful intension for fraudulent gain thereby causing wrongful losses to me and my firm and had also committed common criminal breach of trust for the faith I was having on the accused persons besides causing monetary losses to me and my firm.

That, after having no other alternative left, I had served a legal notice through my counsel on 21/12/2020 asking the accused persons to repay the outstanding amount in order to maintain the good business relationship and to refrain from any legal actions but all in vain.

That I therefore prays before your honour to be pleased take cognizance of the matter and may kindly issue processes as deem fit and just in the interest of justice for the commission of the offences by accused persons named above and to punish them under the penal sections as prayed for in the interest of justice.

That I humbly submits that the above statements are correct and true to the best of my knowledge, belief and information and nothing is concealed therein."

Statement of Complainant Ken Chishi

" 1. I came into contact with the accused persons through business acquaintances Shri. Rajiv Chopra, who are all residents of Pali

Village, P.O Bhogpur, P.S Rani Pokhri, Tehsil Rishikesh, Dist. Dheradun, Uttarkhand. The accused persons are living as joint family owning joint property and agricultural land at Pali Village.

2. *I was awarded a contract for supplying of rice to the Nagaland Armed Police Battalion stationed at Delhi wherein I along with Shri. Rajiv Chopra met the accused persons sometime in the month of January 2019 at Pali Village Dheradun, Uttarkhand and engaged the accused persons for supplying of basmati rice (broken) to the Nagaland Armed Police Battalion stationed at Delhi on behalf of myself and at Dimapur. During our meeting with the accused persons, a verbal agreement was reached wherein the agricultural yields at the paddy fields of the accused persons were booked by me. Furthermore, I was asked by the accused person Deepak Chand to handed over a cash amount of Rs. 1,00,000/- (Rupees one lakh) each to the accused persons namely Shri. Abjeet Chand, Shri. Dhanyjay Chand, Shri. Divakar Chand and Smti. Soni Chand as advance payment for the supply of basmati rice and in good faith I duly complied.*
3. *I made payments to the accused persons on various occasions for payment of labourers in the field, transportation, jute bag etc in good faith. The money transferred to the accused persons are as follows:*

*An amount of Rs. 1,00,000-00 (Rupees One Lac) each in cash was handed to **Abjeet Chand, Dhanyjay Chand, Divakar Chand** and **Soni Chand** respectively at the first meeting in the presence of Rajiv Chopra. I made payment to G.P*

Chand of (i) Rs. 2,50,000-00 (Rupees Two Lac Fifty Thousand) on 11.06.2019 vide cheque No. 43477 from the account of Allied Traders (ii) Rs. 1,62,000-00 (Rupees One Lac Sixty Two Thousand) on 31.07.2019 vide Cheque No. 79 from the saving bank account of the complainant (iii) Rs. 2,35,000-00 (Rupees Two Lac Thirty Five Thousand) on 20.09.2019 vide cheque No. 90 from my saving bank account (iv) Rs. 2,60,000-00 (Rupees Two Lac Sixty Thousand) on 13.08.2019 vide cheque No. 302 from my joint account of M/S P.S Enterprises, Rs. 2,36,000-00 (Rupees Two Lac Thirty Six Thousand) on 28.08.2019 vide Cheque No. 310 from my joint account of M/S P.S Enterprises (v) Rs. 98,405-00 (Rupees Ninety Eight Thousand Four Hundred Five) on 05.09.2019 vide cheque No. 313 from my joint account of M/S P.S Enterprises. I also made payments to accused Preeti Chand, an amount of (i) Rs. 2,00,000-00 (Rupees Two Lac) on 20.09.2019 from the complainants saving bank account vide cheque No. 89 (ii) Rs. 2,97,310-00 (Rupees Two Lac Ninety Seven Thousand Three Hundred Ten) on 30.10.2019 vide cheque No. 35254 from the account of M/S P.S Enterprises.

The total amount transferred to the accused persons is approximately Rs. 19.50 Lacs. The said transactions were made through Rajiv Chopra and my manager.

- 4. As per verbal agreement the accused persons were to supply basmati rice (Broken) to Nagaland Armed Police Battalion stationed at Delhi and in Dimapur. It was further agreed that the final bill shall be settled after the delivery of the rice. However, it*

was later learnt that the accused persons have not delivered the rice as agreed, as such, I sent Rajiv Chopra to approach the accused persons on several occasions to fulfill the part of their agreement. However, the accused persons tricked me and Rajiv Chopra by saying that the crops had failed and they shall either supply the rice on the next season or refund the entire money advanced by me.

- 5. That since the accused persons failed to deliver the rice as agreed, that I had to engage a third party to fulfill the contract in supplying the rice to Nagaland Armed Police Battalion stationed at Delhi by incurring additional expenses, causing huge monetary loss and mental agony to me.*
- 6. That having come to know about the factum and mischievous act of the accused persons. I along with Rajiv Chopra went to meet the accused persons to recover the money, sometime in the later part of 2021, however after returning from Uttarankhan, I came to know that the accused persons have threatened Mr. Rajiv Chopra with dire consequences if ever I again asks for the repayment of money.*
- 7. That despite my request to accused persons for returning the said amount, the accused persons have deliberately avoided in returning the said money and thus from the actions of the accused persons it has transpired that from the inception the accused persons had a common intention to cheat and defraud me.*

There after I consulted with my manager and family and decided to file this instant complaint."

Statement of Complainant Bokavi Chisi

" My name is Bokavi Chisi son of Lt. Y.L Sema R/o H. No. 147, Khehokhu Village near N.B College, Dimapur, Nagaland.

1. *My sister Ken Chishi was awarded a contract for supplying rice to the Nagaland Armed Police Battalion stationed at Delhi wherein my sister and I jointly execute the said contract. Sometime in the month of January 2019, my sister and Shri. Rajiv Chopra met the accused persons at Pali Village Dheradun, Uttarkhand and engaged the accused persons for supplying of basmati rice (broken) to the Nagaland Armed Police Battalion stationed at Delhi and other business purposes in Nagaland.*
2. *I made payments to the accused persons on various occasions fro labourers in the field, transportation, jute bag etc. through my manager and Rajiv Chopra. The money transferred by the complainant to the accused persons are as follows;*
 - (i) *Amount of Rs. 1,25,000-00 (Rupees One Lakh Twenty Five Thousand) was handed to Deepak Chand (A-2) on 28.07.2020 vide cheque No. 45427.*
 - (ii) *Amount of Rs. 1,50,000-00 (Rupees One Lac Fifty Thousand) was given to G.P Chand (A-5) on 04.05.2019 vide cheque No. 44330 and Rs. 82,029-00 (Rupees Eighty Two Thousand Twenty*

Nine) on 27.07.2020 vide cheque No. 45422.

- (iii) *Amount of Rs. 3,00,000-00 (Rupees Three Lakh) was given to Preeti Chand (A-6_ on 07.10.2019 vide Cheque No. 44394.*

3. *That as per verbal agreement with the accused persons it was arranged that the accused persons shall supply basmati rice to Nagaland Armed Police Battalion stationed at Delhi and also in Nagaland and it was further agreed that the final bill shall be settled after the delivery of the basmati rice. However, the accused persons have not delivered the rice as agreed, as such, Rajiv Chopra on my behalf approached the accused persons on several occasions to fulfill the part of their agreement. However, the accused persons tricked me by saying that the crops had failed and they shall either supply the rice on the next season or refund the entire money as advanced by me.*
4. *That since the accused persons failed to deliver the basmati rice as agreed, the complainant had to engage a third party to fulfill the contract in supplying the rice to Nagaland Armed Police Battalion stationed at Delhi by incurring additional expenses, causing huge monetary loss and mental agony to me.*
5. *That having come to know about the factum and mischievous act of the accused persons, I sent Shri. Rajiv Chopra to the accused persons to recover the money, however the accused*

persons threatened Shri. Rajiv Chopra with dire consequences if ever I asks for the repayment of money. This was stated to me by Shri. Rajiv Chopra. As such I filed this complaint against the accused persons for cheating me and other offences after consultation with my family and acquaintances."

[20.] From the above abstract it may be seen that according to the Complainants, they have handed a reasonably good amount of money to the accused persons on various occasion both by cash as well as by cheques for the purpose of supplying them rice. Their statements have also been supported by the other witnesses of the Complainants which has not been abstracted in this order for the sake of brevity. The projection made by the accused persons is that they have not entered into any agreement with the complainants for supply of *basmati* rice and that they are not even their acquaintances. However, the fact remains that the accused persons do not dispute the fact of receiving the money paid by the Complainants and they have tried to develop a story that the amount paid is towards repayment of debt by Sh. Rajiv Chopra to M/s Gyanendra Pratab Chand for supply of building materials to M/s TS Enterprises and who also happens to be one of the witness of the Complainants.

[21.] Further, the learned counsel for the petitioners has also submitted that *basmati* rice is not grown in Dehradun while according to the learned senior counsel for the respondents, the *basmati* rice cultivated in Dehradun, Uttarakhand is one of the best

quality *basmati* rice. Be that as it may under the given facts and circumstances, what is required to be done is to have a proper and thorough investigation into the matter and in order to ensure that, the investigating agency should have the space to investigate into the matter.

[22.] It is a settled position in law that the inherent powers of this Court conferred by Section 482 of the CrPC has to be exercised sparingly and should not be invoked on a mere asking. Exercise of the same will only be justified by the tests specifically laid down in the Section itself. The Apex Court, in the case of *Ramveer Upadhyay & Anr.* (supra) in the given facts of that case held that the Court does not examine the correctness of allegations in a complaint except in exceptionally rare cases where it is blatantly clear that the allegations are frivolous or do not disclose any offence. In the instant case, although the accused persons have disputed the truthfulness of the complaints itself, but receipt of the amount of money initially as an advance and thereafter, the entire remaining balance amount has not been disputed. Therefore, under the given facts and circumstances, this Court is not inclined to invoke the powers under Section 482 of the CrPC and interfere with the proceedings in the Criminal Complaints.

[23.] Thus, upon due consideration, I do not find merit in the criminal petitions and they are accordingly dismissed. It is however provided herein that the Criminal Complaints should be proceeded

with by the learned Court below strictly in accordance with law.

[24.] The interim orders passed earlier are vacated. Registry to send back the Lower Court Records immediately.

JUDGE

Comparing Assistant