

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-11512 of 2014

Date of Decision: January 28, 2015

Joginder Singh

...Petitioner

VERSUS

Jarnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravi Sharma, Advocate
for the petitioner.

Mr.R.S.Budhwar, Advocate
for the respondent.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of criminal complaint No.166 of 2012 under Sections 419, 420, 467, 468, 471 and 120-B IPC titled as 'Jarnail Singh vs. JPS Panwar and others' pending in the Court of learned Judicial Magistrate Ist Class, Kurukshetra and summoning order dated 06.07.2013 along with all other consequential proceedings arising therefrom, qua the petitioner.

Notice of motion was issued in this case and learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that present petition has been filed by Joginder Singh, who was Clerk in Central Bank of India, Branch Office, Ladwa at the time of occurrence. I have perused the complaint. There are no specific allegations against the present petitioner in the complaint. As per the complainant's version, one Rajinder Singh has taken loan of ₹14,87,000/- from the Central Bank of India, Branch Ladwa in the year 2002. It is further stated in the complaint that all the accused after hatching criminal conspiracy with dishonest and fraudulent intention, forged and fabricated a false guarantee deed showing the complainant as guarantor by impersonation on dated 20.11.2002. The complainant never stood guarantor for Rajinder Singh nor he has signed any guarantee deed.

The perusal of the complaint shows that except this general allegation, there is nothing in the complaint that what role is played by present petitioner. It is simply stated that accused have also used the said forged and fabricated documents as genuine by submitting the same before Recovery Debt Tribunal i.e. in the judicial proceedings and also took fabricated documents as correct. There is nothing in the complaint that present petitioner Joginder Singh, Clerk, in any way, impersonated the complainant. There is also nothing in the complaint that present petitioner, in any way, related to the main accused or he was knowing this fact that someone has impersonated on the guarantee deed in place of present complainant. There are no such allegations in the complaint. Nothing is there in the complaint that how present petitioner is involved in the commission of offence.

At the time of arguments, it is argued that petitioner has filled the guarantee deed, which is not signed by any officer and the guarantee deed has been produced before the DERT. I find that generally, the Bank loan documents are filled by the Loan Clerk in the Banks at the instance of the loanee but mere filling of the forms of loan documents as well as guarantee deed, does not amount to commission of the offence. If there was some evidence to show that the accused-petitioner had knowledge of impersonation or he himself impersonated etc., then this allegation should be in complaint, but there are no such allegations in the present case. As regarding the fact that record has been produced before DERT, again it does not amount to commission of offence. When a document, which is stated to be on record and record including that document has been produced before the DERT, then no offence is made out. Otherwise also, there is nothing in the complaint to show that Joginder Singh petitioner has intentionally produced that forged document and wanted to put the liability upon the complainant knowingly or with connivance of other accused. There are no such specific averments in the complaint.

In view of the above discussion, I find that no offence is made out against present petitioner from the complaint itself. The filing of the complaint against present petitioner and all other subsequent proceedings are nothing but abuse of process of the law.

Therefore, finding merit in the present petition, the same is allowed.

Criminal complaint No.166 of 2012 under Sections 419,

420, 467, 468, 471 and 120-B IPC titled as 'Jarnail Singh vs. JPS Panwar and others', summoning order dated 06.07.2013 passed by learned JMJC, Kurukshetra and all subsequent proceedings arising therefrom are hereby quashed, qua the petitioner.

January 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE