

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-11895 of 2015 (O&M)
Date of Decision: October 08, 2015

Subhash

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumeet Goyal, Advocate
 for the petitioner.

INDERJIT SINGH, J.**CRM No.32847 of 2015**

The application is allowed subject to all just exceptions.

Annexure P-7 (colly) is taken on record.

CRM No.M-11895 of 2015

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of FIR No.31 dated 31.01.2009 under Sections 406, 420, 467, 468, 471, 120-B and 411 IPC registered at Police Station DLF District Gurgaon and all proceedings arising therefrom.

At the time of arguments, learned counsel for the petitioner argued that petitioner is not named in the FIR. The only evidence against the petitioner is that one Ajit driver has deposed that he has delivered the goods at the shop of the present petitioner. He argued that no offence is made out against the present petitioner.

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

First of all, the FIR cannot be quashed only on this ground that accused is not named in the FIR. It is not necessary that name of each and every accused must be there in the FIR. Many times, the accused are unknown persons and they are nominated during investigation and evidence is collected against the accused persons before presentation of challan. In the present case, admittedly, the challan has been presented against the petitioner. It is also clear from the record that Ajit driver of the vehicle, in his statement under Section 161 Cr.P.C. has stated that so many articles from the godown like refined, oil etc. have been delivered at the shop of the petitioner.

In the quashing petition, this Court can quash the FIR if no offence is made out from the perusal of the FIR itself. The Court is not to weigh the evidence as to whether this is sufficient evidence or not. In the quashing petition, it is for the Court, while framing of the charge, to see whether prima facie case is made out or not. Furthermore, it is the argument of learned counsel for the petitioner himself that Ajit driver has given the statement against the present petitioner. The perusal of the FIR shows that the complainants are 7-8 persons, who got registered the FIR against the Simplex Trading Syndicate by alleging that the complainants supplied different products amounting to lacs of rupees and they were cheated by the accused and even they absconded from their office and the godown was also found empty. It is also in the FIR that complainants have

noticed that other parties have also been cheated by the accused.

From the perusal of the FIR, it cannot be held that no offence is made out. As already discussed, this Court, at this stage, is not to weigh the evidence. There is nothing to show that registration of the FIR amounts to miscarriage of justice or abuse of process of law. At this stage, without any evidence, it cannot be held that petitioner has been falsely implicated in the present case.

In view of the above discussion, I do not find that registration of the FIR and presentation of challan against the present petitioner amounts to miscarriage of justice or abuse of process of the law.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above, will constitute my opinion on the merits of the case. The petitioner is at liberty to argue all the points at the time of framing of the charge.

October 08, 2015
Vgulati

(INDERJIT SINGH)
JUDGE