IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-14380 of 2014
Date of Decision: February 06, 2015

Ashwani Puri

...Petitioner

VERSUS

J.P.Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Bajaj, Advocate
for the petitioner.

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<u>INDERJIT SINGH, J.</u>

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 07.11.2013 passed by learned Addl. Sessions Judge, Kapurthala whereby the revision filed by the petitioner against the order dated 23.12.2011 passed by learned Addl. Chief Judicial Magistrate, Kapurthala dismissing the complaint filed by petitioner under Sections 463, 464, 466, 467, 468, 471 and 120-B IPC, has been dismissed.

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

Ashwani Puri complainant filed a complaint against J.P.Singh, Neeraj Gupta, R.C.Bajaj and C.L.Kochher under Sections 463, 464, 466, 467, 468, 471 and 120-B IPC alleging that complainant stood surety for loan of ₹85 lacs obtained from Punjab National Bank, Kapurthala vide Account No.236250. The said loan was sanctioned by Manager of the Bank and at that time, complainant gave his guarantee for repayment of the loan amount and submitted his factory documents as collateral security. The loan was taken by the Society, which was in need for the construction and infrastructure of the college building. The petitioner was Treasurer of Sarv Hitkari Educational Society. As per the allegations in the complaint, the Bank has shown him guarantor for an amount of ₹1.65 crore granted in the year 2001 and nephew of the complainant also gave the guarantee in the said loan and at the time of execution of guarantee deed regarding the amount of ₹1.65 crore, accused-respondents No.3 and 4 also gave their guarantee in the said guarantee deed. It is also in the complaint that bank authorities have released accused C.L.Kochhar without clearing the loan of ₹50 lacs which was due on account of loan of ₹1.65 crore, which also shows fraud having been done by all the accused in order to grab the property of the complainant.

Learned ACJM, Kapurthala vide order dated 23.12.2011 dismissed the complaint by holding that testimony led by the complainant alone is insufficient. The complainant was bound to lead sufficient evidence in support of his version at this stage. The Court has also held that complainant has placed reliance on copies of documents placed on the record. Ex.C1 is the copy of the Bank guarantee deed. The Court held that no employee of the Bank has been examined and no inference can be drawn in this regard. Ex.C2 and C3 are the copies of complaint and reply filed before the Consumer Forum. Ex.C5 is the copy of the details of loan. Ex.C6 is the copy of guarantee deed. The Court also held that if any forged document has been used before the Consumer Forum, then the complainant should have filed the complaint under Section 340 Cr.P.C. before that Court. The Court while discussing the statement of complainant led in preliminary evidence in details, reached to the conclusion that these allegations have not been substantiated by the complainant by leading any other evidence. The findings of learned ACJM, Kapurthala have been upheld by the learned Addl. Sessions Judge, Kapurthala in the revision petition which was dismissed on 07.11.2013.

In view of the above discussion, I find that the order and judgment passed by learned Courts below are correct and as per law. No illegality has been pointed therein. Nothing has been shown as to how these order and judgment, on the face of it, amount to miscarriage of justice or these are perverse etc. As against the order of learned ACJM, Kapurthala, petitioner has already availed the remedy by way of revision petition, now the present petition under Section 482 Cr.P.C. has been filed in the guise of second revision, which is not permissible as per Section 397(3) Cr.P.C.

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

February 06, 2015 **(INDERJIT SINGH)**
Vgulati **JUDGE**