IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No.M-14430 of 2015 (O&M)
Date of Decision: July 30, 2015

Sachin Sharma

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

with

Criminal Misc. No.M-17662 of 2015 (O&M)

Sunil Kumar Sharma

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. Hitesh Verma, Advocate
for petitioner Sachin Sharma.

Mr. Karan Bhardwaj, Advocate
for petitioner Sunil Kumar Sharma.

Mr. Gurdas Singh Salwara, DAG, Haryana.

Mr. Manish Soni, Advocate
for the complainant.

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ANITA CHAUDHRY, J.

1. These are two petitions filed under Section 482 Cr.P.C. seeking anticipatory bail in FIR No.101 dated 30.03.2015, registered under Sections 420, 406, 506 and 120-B IPC at Police Station Kasola, District Rewari.

2. A complaint was made by Amit that he was running a company by the name and style of Shri Sham Transport Company and had entered into a contract with Saint Gobain Glass Company, situated at Bhiwadi in Rajasthan and they used to provide trucks to the company and in return the company used to pay them through RTGS account and the amount was deposited in the firm's account standing at PNB Bank at Vilalge Bawal, Rewari. The complainant had alleged that Sunil Kumar used to work as an Assistant/Clerk with him had complete information of the account & transactions being his Assistant. Sachin Sharma was working as a Head Dispatch with Saint Gobail Glass Company and was dealing with dispatch work of that company. The allegations were that Sunil in connivance with Sachin had opened a false account at HDFC Bank, Bawal in the name of complainant's Company and got deleted account of the complainant and the payments started flowing in the new account and thereby he had been cheated. The complainant made a complaint to higher officers of Saint Gobain Glass Company and it was discovered that these two persons were involved and they promised to return the amount but instead Sunil started threatening him.

3. Both the petitioners were directed to join the investigation on 02.06.2015. One of the accused namely Sunil had submitted that he was willing to pay Rs.5 lacs. In view of that offer, directions were given to the petitioner to deposit Rs.5 lacs within 10 days and arrest of Sunil was stayed by Vacation Judge and the petitioner was allowed to join the investigation. The payment was never made though another opportunity had been given.

4. The complainant side had appeared and had placed on record some documents and the letters written by him to Saint Gobain Company.

5. Counsel for both the petitioners have urged that there was no involvement of either of the petitioners. It was submitted that Sunil Kumar owned the company and it was his photograph which was affixed on the letter Annexure P-5. The counsel had also referred to Annexure P-4 to show that this company was registered in his name.

6. On the last date counsel appearing for Sachin Sharma had sought time to inform whether the petitioner's services were continuing or it had been terminated. Today the counsel has informed that since the case has been registered in March, therefore, the petitioner could not join the services and his services could have been terminated.

7. The counsel appearing for the complainant pointed out that the registration of the Company was got done by Sunil in November, 2014 and the dispute had arisen much earlier.

8. The letter written by the law office of Saint Gobain Company which was placed on record by the complainant shows that Saint Gobain Company was dealing with Amit Kumar proprietor of M/s. Shri Shyam Transport Company and had also referred to the bank account in which they were depositing the amount.

9. The allegations are serious. A huge amount has been wiped off from the Company after a fake bank account was opened. The State counsel had also informed that they had verified that the papers which were submitted for opening the account were fake.

Section 438 Cr.P.C. is an extra ordinary remedy and protection can be granted only considering the material and the facts of a given case. The allegations against the petitioners are grave. Custodial interrogation is necessary to unearth the fraud. It would be difficult to carry out the investigation and it is necessary to curtail their freedom to enable the Investigators to proceed. No fetters can be placed upon the Investigators.

Both the petitions are dismissed.

(ANITA CHAUDHRY)
July 30, 2015 **JUDGE**
sunil